

# TOWN OF FELTON, DELAWARE

## PLANNING AND ZONING ORDINANCE

Approved by the FELTON Town Council

July 8, 2013

*prepared by*

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## **Article 1. General Provisions**

### **Section 1-1. Title**

This ordinance shall be known as the Planning and Zoning Ordinance (Ordinance) of the Town of Felton, Delaware.

### **Section 1-2. Authority**

This Planning and Zoning Ordinance has been made in accordance with the grant of power in Title 22, Section 301 of the *Delaware Code*.

### **Section 1-3. Purposes**

- A. To guide the future growth and development of the Town of Felton in accordance with the comprehensive plan.
- B. To promote the health, safety, and general welfare of the community.
- C. To lessen congestion in the streets.
- D. To secure safety from fire, panic and other dangers.
- E. To provide adequate lighting and preserve air quality.
- F. To prevent the overcrowding of land.
- G. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- H. To conserve the value of land and buildings.
- I. To encourage the most appropriate uses of land.

### **Section 1-4. Applicability**

This Ordinance applies to all land within the incorporated boundaries of the Town of Felton.

### **Section 1-5. Components**

- A. This Ordinance consists of the regulations written herein and an official map depicting zoning districts in the Town of Felton.
- B. The tables contained herein are part of this Ordinance.
- C. The drawings and graphics herein are part of this Ordinance unless otherwise indicated.
- D. The Site Construction Standards and Specifications document is to be used in accordance with the Planning and Zoning Ordinance.

### **Section 1-6. Compliance Required**

- A. No tract, parcel, lot, or property shall be divided, partitioned, or combined, whether by deed, will, or lease, or by metes and bounds, subdivision plat, or land development, unless done in conformance with the provisions of this Ordinance. This provision also applies to land offered for sale or lease.
- B. No building or land shall be used unless it is done in conformance with the provisions of this Ordinance.
- C. No building or part of a building shall be demolished, demolished by neglect, erected, reconstructed, converted, enlarged, moved, or structurally altered unless it is done in conformance with the provisions of this Ordinance.
- D. Yards and Open Space
  1. No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform with the yard, lot, area, and building location regulations designated for the zoning district in which such building or open space is located unless otherwise permitted.

2. A yard or other open space associated with a building on one lot shall not be considered as a required yard or open space for a building on any other lot.
  3. All required yards and courts shall be open and unobstructed to the sky unless otherwise permitted.
  4. All yards and landscaping shall be maintained in good condition.
- E. Height of Buildings and Structures
1. General. No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted.
  2. Sloping Lot. On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.

### **Section 1-7. Ordinance Provisions are Minimum Requirements**

The provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety, morals, convenience, order, comfort, prosperity, or general welfare.

### **Section 1-8. References to the *Delaware Code***

References to any part of the *Delaware Code* apply to the *Code* as existing when this Ordinance is adopted, or as amended subsequently.

### **Section 1-9. Interpretation of Language**

- A. Certain words in the singular number shall include the plural number, and certain words in the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- B. Words in the present tense shall include the past and future tenses, and words in the future tense shall include the present tense.
- C. The word “shall” is mandatory. The word “may” is permissive.
- D. The meaning of the word “used” shall include “designed” or “intended or arranged to be used.”
- E. The meaning of the word “erected” shall include “constructed,” “reconstructed,” “altered,” “placed,” or “moved.”
- F. The meaning of the terms “land use” and “use of land” shall include “building use” and “use of building.”
- G. The meaning of the word “adjacent” shall include “abutting” and “adjoining.”

### **Section 1-10. Pre-existing Permits and Lots**

- A. Compliance Letters/Building Permits
  1. Construction may be commenced and/or completed in accordance with any validly issued and unexpired Kent County building permit issued prior to the effective date of this ordinance.
  2. Construction is considered begun for administrative purposes when a building permit has been issued.
- B. Lots – See Non Conforming Lots, Section 5-2.

### **Section 1-11. Conflict with Other Regulations**

Where this Ordinance imposes a standard that differs from a standard imposed by other resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the stricter standard shall govern.

**Section 1-12. Severability**

Should a court decide that any section or provision of this Ordinance is unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part other than the part judged unconstitutional or invalid.

**Section 1-13. Review Fees**

The applicant shall be responsible for all fees associated with review and subsequent costs incurred by the Town as a result of the project.

- A. No final approval shall be granted until all review fees associated with the project have been paid in full.
- B. No compliance letters will be issued to any applicant with outstanding fees, charges, bills, taxes, or fines due to the Town. Any outstanding fees, charges, bills, taxes or fines must be paid in full prior to the issuance of any permit.

**Article 2. Definitions**

**Accessory Use.** See *Use, Accessory*.

**Acre.** A measurement of land area equivalent to approximately 43,560 square feet.

**Adjacent.** Physically touching or bordering upon; sharing a common boundary, but not overlapping.

**Administrator.** Person authorized to administer and enforce this Ordinance. See Article 3, Section 3-3.

**Alley.** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

**Alteration, Structural.** Any change in either the supporting member of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

**Applicant.** Any individual submitting a plan for review under the provisions of this ordinance.

**Basement.** A space partly underground and having at least half of its height below ground with a minimum height of seven feet.

**Bed & Breakfast.** A lodging place with no more than 4 guest rooms, or suites of rooms, available for temporary occupancy, whose owner resides at the facility, and where meals are available only to guests at the facility.

**Block.** A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

**Board.** Board of Adjustment for the Town of Felton. See Article 3, Section 3-2.

**Buildable Area.** The area of a lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

**Building.** Any structure having a roof supported by columns or walls intended for the shelter, housing, or enclosure of any individual, animal, process equipment, goods, or materials of any kind.

**Building, Accessory.** A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use.

**Building, Main or Principal.** A building in which is located the principal use of the lot on which it is located.

**Building Height.** The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

**Building Line.** A line parallel to the street line touching that part of a building closest to the street.

**Building permit authority.** The Kent County/Felton Division of Inspections and Enforcement, whichever is applicable.

**Bulk Regulations.** See *Dimensional and Density Standards*.

**Caliper Dimension.** The outside diameter measurement of the trunk of a tree measured at a vertical distance of three (3) feet above grade. Refer to Table 12-1.

**Cellar.** A space partly underground and having at least half of its height minimum below ground with a minimum of five feet.

**Certified Comprehensive Plan.** A document prepared, adopted, and certified according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92 of the *Delaware Code*.

**Club.** A group of people, organized for a social, educational, or recreational purpose, operating primarily neither for profit nor to render professional services.

**Concept Plan.** An informal sketch or drawing of a site or subdivision plan of sufficient accuracy to be used for discussion only, and utilizing Table 4-1 as a guide for the information to be included.

**Conditions of Approval.** Conditions placed on the final approval of an applicant's plan, that are consistent with the appropriate uses and intensities of use as set forth in this Ordinance.

**Commission.** The Town of Felton Planning Commission. See Article 3, Section 3-1.

**Community Center.** A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

**Consolidation.** Removal of lot lines between parcels. See also *Subdivision(c)*.

**Convenience Store.** Any retail establishment offering for sale prepackaged food products, household items, newspapers, and prepared foods usually for off-site consumption.

**County.** Kent County, Delaware.

**Day Care Center, Adult.** An establishment providing for the care, supervision, and protection of adult persons away from their homes, for periods of less than 24 consecutive hours a day.

**Day Care, Child.**

**Child Day Care Center.** A place that provides care, protection, supervision and guidance for 10 or more children. This shall include preschool children who are related to the operator. Service is provided on a regular basis for periods of less than 24 hours per day, unattended by parent or guardian, and for compensation and are licensed by the State of Delaware Department of Services for Children, Youth and Their Families.

**Family Child Care Home.** A private home in which child care is provided for 1 to 9 children at any one time who are not relatives of the caregiver, for periods of less than 24 consecutive hours a day.

**Development.**

- (a) The division of a parcel of land into 2 or more parcels,
- (b) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure,
- (c) Any mining excavation, landfill, or land disturbance,
- (d) Any use or extension of the use of land.

**Development Plan.** A plan for the development of one or more lots, parcels, tracts, or properties on which is shown the existing and proposed conditions, including, but not limited to, topography, vegetation, drainage, floodplains, wetlands, waterways, landscaping and open spaces, walkways, exits and entrances, circulation, utility services, lot lines, easements, structures and buildings, signs, lighting, parking, screening, surrounding development, and any other information that may be reasonably required so that the Town of Felton can make an informed decision; often called site plan. These documents must be to scale when presented with the application and before the Planning Commission.

**Dimensional and Density Standards.** Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which a building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements; also called bulk regulations.

**Distribution Center.** An establishment that distributes and stores goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

**District.** See *Zoning District*.

**Dog Kennel.** See *Kennel*.

**Drive-In Use.** An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Dwelling.** A building, or portion thereof, used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities.

**Dwelling, Apartment.** A room or suite of rooms in a multi-family or converted single-family structure which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

**Dwelling, Attached.** A single-family dwelling unit that is attached to or shares a common vertical wall with one or more single-family dwelling units.

**Dwelling, Duplex.** One of two dwelling units, located on adjoining lots, attached to the other by an unpierced wall extending from ground to roof.

**Dwelling, In-Law Suite.** A room or suite of rooms created in an existing single-family detached structure for the purpose of providing a housekeeping unit or space for a direct relative of the owner and resident of the primary single-family structure. The room or suite of rooms must include independent sleeping, cooking and sanitary facilities. It also must have both common access to the primary structure and separate ingress/egress to the outside of the building.

**Dwelling, Manufactured Home.** A transportable dwelling unit manufactured in an off-site manufacturing facility, with a fixed chassis. The dwelling unit is designed to be free standing, or attached to a permanent foundation; and ready for occupancy after leaving the manufacturing facility, being transported to the building site and attached to utilities. A manufactured home bears a label certifying that it was built in accordance with Federal Manufactured Home Construction and Safety Standards, which became effective on June 15, 1976.

**Dwelling, Mobile Home.** A transportable dwelling unit manufactured in an off-site manufacturing facility, with a fixed chassis. The dwelling unit is designed to be free standing, or attached to a permanent foundation; and ready for occupancy after leaving the manufacturing facility, being transported to the building site and attached to utilities. These dwelling units were manufactured prior to June 15, 1976 on which date the Federal Home Construction and Safety Standards became effective.

**Dwelling, Modular.** A dwelling unit fabricated in an off-site manufacturing facility in accordance with the relevant local building code. These dwelling units are shipped from the manufacturing facility in two or more modules, which are attached on-site. The dwelling unit is not manufactured with a fixed chassis and is designed to be placed on a permanent foundation. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes.

**Dwelling, Multi-Family.** A building containing two or more dwelling units, including units that are located one over the other.

**Dwelling, Multi-Family Converted.** A structure converted from a single-family dwelling unit into a two family dwelling unit.

**Dwelling, Single-Family Detached.** A building containing one dwelling unit that is not attached to any other dwelling unit by any means and is surrounded by open space or yards.

**Dwelling, Townhouse.** A single-family dwelling unit in a row of at least 3 such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, common, fire-resistant walls.

**Dwelling, Two-Family.** A building designed or converted for occupancy by two families living independently of each other.

**Dwelling Unit.** One or more rooms, designed, occupied, or intended for occupancy as living quarters, with cooking, sleeping, and sanitary facilities provided within for the exclusive use of a single family maintaining a household.

**Easement.** Authorization by a property owner for another to use the owner's property for a specified purpose.

**Educational Institution.** Any school, educational institution or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, middle school, elementary school, kindergarten, or nursery school jurisdiction, or any combination thereof, or any other program of trade, technical or artistic instruction.

**Family.** A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**Fence.** A structure functioning as a boundary or barrier.

**Fence Materials.** Vinyl, pressure treated wood, resin, PVC, galvanized chain link 12 gage (welded wired fencing)

**Filling Station.** Building, land, or premises used for the retail dispensing or sales of vehicular fuels; servicing and repair of motor vehicles; may include, as accessory uses, the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

**Floodplain.** When used in this Ordinance, the term "floodplain" refers to the area impacted by the 100 year flood as depicted on the most recent Flood Insurance Rate Maps (FIRMs) developed by the Federal Emergency Management Agency (FEMA) or a more accurate topographic survey of a parcel or group of parcels which specifically identify the area impacted by the 100 year flood using the FEMA determined flood elevation.

**Floor Area.**

**Floor Area, Gross.** The sum of the gross horizontal areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than 7 feet.

**Floor Area, Net.** Gross floor area of a building, excluding the area occupied by walls and partitions, the circulation area (where people walk), and the mechanical area (where there is mechanical equipment).

**Free Standing Sign.** A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Free standing signs may be mounted directly to a base made of masonry or other materials.

**Garage.** A building, structure, or part thereof, used for the parking and storage of vehicles.

**Greenhouse, Commercial.** A structure in which plants, vegetables, flowers, and similar materials are grown for sale.

**Home Occupation.** See "Home Based Businesses" in Article 7, Section 7-4.

**Hospital.** A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than 24 hours in any week of 4 or more non-related individuals suffering from illness, disease, injury, or deformity; or a place devoted primarily to providing for not less than 24 hours in any week of obstetrical or other medical or nursing care for 2 or more non-related individuals requiring a license issued under *DE Code*, Title 16, Chapter 10, Sec. 1003; but does not include sanatoriums, rest homes, nursing homes or boarding homes.

**Kennel.** A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

**Landscape Screen.** A completely planted visual barrier composed of evergreen plants and trees arranged to form both a low level and a high level screen. The high level screen shall consist of evergreen trees planted at an initial height of not less than five feet and planted at intervals of not more than ten feet on center *in multiple rows with a fifteen foot overall width*. The low level screen shall consist of evergreen shrubs planted at an initial height of not less than two feet and spaced at intervals of not more than five feet on center.

**Lot.** A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes and bounds description, to be separately owned, used, developed, or built upon. See also *Yard*. See *Figure 8.2, page 50*.

**Lot, Corner.** A lot bordering on two streets, which intersect at an angle not greater than 135 degrees.

**Lot, Depth.** The average distance measured from the front lot line to the rear lot line.

**Lot, Double Frontage (AKA Through Lot).** A lot, other than a corner lot, that has frontage on 2 streets.

**Lot, Interior.** A lot other than a corner lot.

**Lot, Legal.** A lot which was created and legally recorded prior to the adoption of this Ordinance, or any lot subdivided and legally recorded in full compliance with these regulations subsequent to the adoption of this Ordinance.

**Lot Line.** A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

**Lot Line, Front.** Any lot line separating a lot from a street right-of-way.

**Lot Line, Rear.** The lot line most nearly opposite and parallel to the front lot line. On a corner lot, the rear lot will be determined, based on the orientation of the structure, by the Planning Commission at the time of request for a Certificate of Zoning Compliance. Once initially determined, this lot line shall remain the rear lot line in perpetuity.

**Lot Line, Side.** Any lot line other than a front or rear lot line.

**Lot of Record.** A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the County Recorder of Deeds.

**Lot, Width.** The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, i.e., the buildable width of a lot.

**Major Recreational Equipment.** Major Recreational Equipment includes boats, boat trailers, tent trailers, personal watercraft, snowmobiles, and similar equipment, travel trailers, pick-up campers or coaches designed to be mounted on or attached to motor vehicles, recreational vehicles (RVs) or motorized dwellings.

**Major Subdivision Plan.** A plan for the division of any parcel or parcels of land into more than 5 parcels or any division of any parcel or parcels of land that requires the construction or extension of public utilities or streets. Preliminary and final plan submissions are required. See Table 4-1.

**Manufactured Housing.** See *Dwelling, Manufactured Home*.

**Manufacturing.** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

- (a) Manufacturing includes all mechanical or chemical transformations regardless of whether the new product is finished or semi-finished as a raw material for further processing.
- (b) The processing of farm products grown on a farm is not manufacturing, but rather, an accessory use to farming operations.

**Medical Clinic.** An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight.

**Minor Subdivision Plan.** A plan for the division of any parcel or parcels of land into no more than 5 parcels, none of which require the construction or extension of public utilities or streets, containing information as set forth in Table 4-1.

**Mobile Home.** See *Dwelling, Mobile Home*.

**Modular Home.** See *Dwelling, Modular*.

**Municipality.** The Town of Felton, Delaware.

**Nonconformities.** Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance. See Article 5.

**Nursing & Similar Care Facilities.** A facility that offers any of the following types of care or services and including, but not limited to, facilities regulated by the State Department of Health and Social Services; which provide care for 24 hours a day.

**Assisted Living Facility.** Residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication and may provide other services such as recreational activities, financial services, and transportation.

**Extended Care Facility.** A long-term facility or distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

**Intermediate Care Facility.** A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

**Long-Term Care Facility.** An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its member by marriage, blood, or adoption.

**Other.** Including family care homes, group homes, intermediate care facilities for persons with mental retardation, neighborhood group homes, family care homes, and rest residential facilities.

**Off-Street Parking Space.** An off-street parking space is a permanently-reserved, temporary storage area for one motor vehicle that is not located on, but is directly accessible to a dedicated street right-of-way which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

**Office.** A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communications equipment.

**On-Street Parking Space.** An on-street parking space is a temporary parking space for one motor vehicle that is located within the street right-of way.

**Open Space, Active.** Land set aside as a part of a development project that is intended and designed to be used for active recreational activities. Active open space must be free of wetlands and any other site constraints that would restrict the use and enjoyment of the open space by the community. Active open space is often improved with playground equipment, playing fields, walkways and the like.

**Open Space, Passive.** Land set aside as part of a development project that is intended to be left in its natural state, and enjoyed for its aesthetic and ecological values. Any public use of the passive open space should be consistent with the preservation of ecological functions of the open space.

**Permanent Sign.** A permanent sign is a sign constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.

**Place of Worship.** A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**Preliminary Plan.** The first required submission for all projects requiring a major subdivision or site plan submission. The information to be included on this plan shall be as set forth in Table 4-1.

**Premises.** A lot, parcel, tract, or plot of land together with the buildings and structures on them.

**Public Building.** A building, owned or leased, occupied, and used by an agency or political subdivision of the federal, state, county, or municipal government.

**Public Safety Facility.** A building or structure used for the provision of public safety services, such as fire protection, emergency medical service, and rescue operations.

**Public Utility Service.** The generation, transmission, and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage and solid waste; and the provision of mass transit to the public.

**Public Utility Service Facility.** Any use or structure associated with the provision of utility services.

**Public Utility Service Lines.** The system of lines, pipes, wires, or tracks that distributes, transmits, or provides a utility service. This includes equipment that is incidental and necessary to the lines and that is located on the lines.

**Public Water and Sewer System.** Any system, other than an individual septic tank, tile field, or individual well, that is operated by the Town of Felton, a governmental agency, a public utility, or a private individual or corporation approved by the Town of Felton and licensed by the appropriate State agency, for the collection, treatment, and disposal of wastes and the furnishing of potable water.

**Record Plat.** A map depicting the layout of a subdivision, containing information as set forth in Table 4-1, and submitted for final approval.

**Recorder of Deeds.** The Recorder of Deeds for Kent County, Delaware.

**Recreation Facility.** A place designed and equipped for the conduct of sports and leisure-time activities.

**Recreation Facility, Commercial.** A recreation facility operated as a business and open to the public for a fee.

**Recreation Facility, Personal.** A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

**Recreation Facility, Private.** A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

**Recreation Facility, Public.** A recreation facility open to the general public.

**Restaurant.** A restaurant includes the following:

- (a) Establishments where food and drink are prepared, served, and sold primarily for consumption within the principal building.
- (b) Establishments where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside of the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

**Retail Sales.** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Characteristics of such uses include:

- (a) Usually a business place engaged in activity to attract the general public to buy.
- (b) Buys and receives as well as sells merchandise.
- (c) May process or manufacture some of its products—a jeweler or a bakery—but processing is secondary to principal use.
- (d) Generally sells to customers for personal or household use.

**Resubdivision.** Any change in a plan of an approved or recorded subdivision plat that affects any street layout on an area reserved for public use or any lot line or that affects any map, plan, or plat recorded prior to the adoption of any regulations controlling subdivision; includes the consolidation of parcels.

**Right-of-Way.** As used in this Ordinance, the term right-of-way shall describe land dedicated for public use, which shall be reserved for the installation and maintenance of facilities including, but not limited to, streets, alleys, walks, utilities and storm water management.

**Riparian Buffer Area (RBA).** A natural area reserved along a lake, river, stream, waterway, or wetland area to preserve the bank, reduce sedimentation, filter nutrients out of storm water, provide wildlife habitat, preserve existing natural corridors, and protect cultural and archeological resources. Riparian Buffer Areas should consist primarily of native, non-invasive natural vegetation.

**Self-Storage Facility.** A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on an individual basis for varying amounts of time.

**Services.** Establishments primarily engaged in providing assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

**Services, Business.** Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

**Services, Personal.** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

**Services, Retail.** Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personnel service, motion pictures, amusement and recreation services, health, educational, museums, and galleries.

**Services, Social.** Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities, and physical disabilities.

**Setback Line.** The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed. See also *Yard*.

**Sign.** See Article 13, Signs.

**Single-Family Development Plan.** A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot, containing information as set forth in Table 4.1

**Site Plan.** A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure except for a single-family detached dwelling or an accessory building on a lot with a single-family detached dwelling, containing information as set forth in Table 4-1.

**State.** The State of Delaware.

**Storm Water Management.** A mechanism for controlling storm water runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

**Storm Water Management Area.** Area(s) specifically designated for the location of mechanisms for controlling storm water runoff. Management mechanisms may include retention/detention ponds; infiltration ponds, swales and sloping grassed areas.

**Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement if its ceiling is over 5 feet above the level from which the height of the building is measured or if it is used for business purposes other than storage.

**Story, Half.** A partial story under a gable, hip, or gambrel floor, the wall plates of which on at least 2 opposite sides are not more than 2 feet above the floor of each story.

**Street.** Any vehicular way that: (1) is an existing State, County or Town of Felton roadway; (2) is shown upon an approved plat; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the Office of the Recorder of Deeds prior to the appointment of the Planning Commission and the grant of power to review plats. A street includes the land between the right-of-way lines, whether improved or unimproved.

**Street, Access.** A street designed to provide vehicular access to abutting property and to discourage thru traffic.

**Street, Alley.** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

**Street, Centerline of.** The centerline of any street shown on any official Town of Felton, County, or State records.

**Street, Collector.** A street that collects traffic from local streets and connects with minor and major arterials or that is defined as such by the Delaware Department of Transportation.

**Street, Cul-de-Sac.** A street with a single common ingress and egress with a turnaround at the end.

**Street, Dead-End.** A street with a single common ingress and egress.

**Street Frontage.** The length of the front lot line that is coincident with the street right of way line.

**Street Line.** The line between a lot, tract, or parcel of land and an adjacent street.

**Street, Private.** A street that has not been accepted by the Town of Felton or the State.

**Street, Service.** A street running parallel to a freeway or an expressway that serves abutting properties, but restricts access to the freeway or expressway.

**Structure.** A combination of construction materials to form a use for occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

**Subdivider.** Any individual, firm, partnership association, corporation, estate, trust, or any other group or combination acting as a unit that subdivides or proposes to subdivide land as defined in this Ordinance. This also includes agents of subdividers.

**Subdivision.** Subdivision includes the following:

- (a) The division of any tract or parcel of land into 2 or more plots, parcels, units, lots, condominiums, tracts, sites, or interests for the purpose of offer, sale, lease, development, whether immediate or future; either on an installment plan or upon any other plans, terms, or conditions; or for any other purpose;
- (b) The division or partition of land or involving the opening, widening, or extension of any streets or access easements and the extension of any electrical, sewer, water, or any other utility line;
- (c) The assemblage or consolidation, of tracts, parcels, lots or sites, resubdivision, and condominium creation or conversion.

**Supermarket.** A retail establishment primarily selling food and other convenience and household goods.

**Surgical Center.** A facility where outpatients come for simple surgical procedures and are not lodged overnight.

**Swimming Pool.** A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having depth of more than 18 inches designed, used, and maintained for swimming.

**Town Council.** The legislative body for the Town of Felton, Delaware, as defined in the Felton Town Charter.

**Use.** The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

**Use, Accessory.** A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

**Use, Principal.** The primary or predominant use of any lot or parcel.

**Variance.** Permission to depart from the literal requirements of specifically requested portions of this Ordinance granted by the Board of Adjustment.

**Wall Sign.** Any sign which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

**Warehouse.** A building used primarily for the storage of goods and materials.

**Wholesale Trade.** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Yard.** An open space that lies between the principal building or buildings and the nearest lot line. See also *Lot*.

**Yard, Front.** A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the front lot line to the closest point of the building.

**Yard, Rear.** A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the rear lot line to the closest point of the building.

**Yard, Side.** A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

**Zoning District.** A specifically delineated area in the Town of Felton within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

## **Article 3. Administrative Structure**

### **Section 3-1. Planning Commission**

- A. Created; Felton Planning Commission  
A Planning Commission is hereby created. This Commission shall be known as the Town of Felton Planning Commission.
- B. Organization  
The Planning Commission shall be constituted, appointed and organized in accordance with the provisions of 22 Del. C. Chapter 7 as the same may be amended from time to time hereafter, or any future corresponding provision of law.
- C. Powers and Duties
  1. The powers and duties of the Commission shall be as set forth in Title 22, Chapter 7 of the *Delaware Code*, as amended from time to time.
  2. Review land use proposals and make recommendations to the Town Council.
  3. Review all amendments proposed to be made to this Planning and Zoning Ordinance and make recommendations to the Town Council.

### **Section 3-2. Board of Adjustment**

- A. Created; Felton Board of Adjustment  
A Board of Adjustment is hereby created. This Board shall be known as the Town of Felton Board of Adjustment
- B. Members  
The Board shall consist of a number of members with terms of office and qualifications as set forth in Title 22, Section 322 of the *Delaware Code*.
- C. Powers and Duties  
The Board's powers and duties shall be those set forth in Title 22, Section 327 of the *Delaware Code*.
- D. Meetings & Hearings  
The Board shall conduct meetings and hearings in accordance with Title 22, Section 323 of the *Delaware Code*.

### **Section 3-3. Administrator (Town Manager)**

- A. Qualifications  
An Administrator possessing the following qualifications shall be appointed by the Felton Town Council to administer the ordinance:
  1. Familiarity with the administration and interpretation of zoning and subdivision ordinances.
- B. Powers and Duties
  1. The Administrator is responsible for the initial interpretation of and securing compliance with the provisions of this Ordinance.
  2. The Administrator shall be responsible for acquiring professional technical review of land development activities regulated by this ordinance, and shall provide commentary and recommendations to the Planning Commission and Town Council prior to their consideration of all applications.
  3. The Administrator shall have the option of providing approval or denial (without review by the Planning Commission) of applications for detached utility buildings which do not require a permanent foundation (i.e. sheds), fences or above-ground swimming pools which are proposed to be placed on residential properties; or these applications may be forwarded to the Planning Commission for their review.
  4. The Administrator shall perform other activities that the Town Council deems appropriate.

**Section 3-4. Town Council**

- A. Administrative Responsibilities
  - 1. Establishing fees and charges.
  - 2. Reviewing and approving all land development activities that came before the Planning Commission after considering their recommendations.
- B. Legislative Responsibilities
  - 1. Adoption of, amendments to, updates of, revisions to, and implementation of a comprehensive plan in accordance with Title 22, Section 702 of the *Delaware Code*.
  - 2. Taking action on changes to the text and map of this Ordinance in accordance with Title 22, Sections 301-310 and 702 of the *Delaware Code*.

## **Article 4. Administrative Procedures**

### **Section 4-1. General Provisions**

- A. General Procedures
1. Duties of the Administrator
    - a. The Administrator shall establish procedures regarding the number of plan copies necessary for submission and the format of that submission.
    - b. The Administrator shall refer the plans to the Town Engineer and Planning Commission in accordance with the schedule set forth in Table 4-2.
  2. Issuance of Building Permits

As a prerequisite for the issuance of building permits and as proof that the plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Certificate of Zoning Compliance from the Town to the building permit authority.
  3. Final Recordation of Plats

As proof that the plan in question has complied with all regulations of this Ordinance, the applicant shall have copies of the Record Plat signed by the Town Manager or designee and recorded in the Office of the Recorder of Deeds. One recorded copy shall be returned to the Town with the plat book and page number(s) on the plan(s) prior to issuance of any Certificate of Zoning Compliance.
  4. Consistency with Comprehensive Plan

If the Town Council finds any development project to be inconsistent with the policies set forth in the Town of Felton's most recently Certified Comprehensive Plan, then the Town Council shall provide the applicant with documentation that details the substantive reasons why the project is not in compliance with the Comprehensive Plan and inform the applicant that the project shall not be approved until such time as it is brought into compliance with the Town of Felton's Comprehensive Plan.
- B. Guidelines for Development Review
- Parameters guiding the review and approval of an applicant's development plan by the Planning Commission and the Town Council. These guidelines generally include the development plan's potential impact on the public health, safety and welfare, and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and, more specifically, the plan's impact on the following objectives:
1. Maximum safety and convenience of vehicular and pedestrian traffic;
  2. Provision of adequate access to all sites for fire and police protection;
  3. Provision of adequate off-street parking;
  4. Site layouts minimizing adverse effect upon adjacent properties;
  5. Landscaping of the site in a manner in keeping with the generally prevailing character of the neighborhood;
  6. An adequate drainage system and layout;
  7. Compliance with applicable ordinances.

### **Section 4-2. Single-Family Development Plan**

- A. Purpose
- To ensure that Single-Family Detached Dwellings and accessory buildings to Single-Family Detached Dwellings comply with the provisions of this Ordinance prior to the issuance of Certificate of Zoning Compliance.

- B. When Required
  - 1. Prior to the issuance of Certificate of Zoning Compliance for the construction or placement of Single-Family Detached Dwellings on legal lots.
  - 2. Prior to the issuance of Certificate of Zoning Compliance for the construction or placement of accessory buildings on legal lots with existing Single Family Detached Dwellings.
- C. Required Information
  - See Table 4-1.
- D. Application Review Process
  - 1. The Single-Family Development Plan shall be presented and submitted by the applicant to the Planning Commission.
  - 2. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified comprehensive plan.
  - 3. If the Planning Commission finds the proposed plan to be consistent with the policies set forth in the Town's most recently Certified Comprehensive Plan, then the Planning Commission shall review the Single-Family Development Plan.
  - 4. The Planning Commission shall review the Single-Family Development Plan for compliance with the regulations of this Ordinance. If a conditional use review is found necessary, then the Planning Commission shall review the conditional use concurrently during the Single-Family Development Review.
    - a. If the Single-Family Development Plan is determined to be in compliance with the regulations of this Ordinance then the Planning Commission shall make a recommendation to the Town Council via the official meeting minutes. Upon approval of the minutes by the Town Council a Certificate of Zoning Compliance is issued.
    - b. The applicant shall be responsible for presenting the Certificate of Zoning Compliance to the building permit authority in order to obtain a building permit.
    - c. If the Single-Family Development Plan is determined to be out of compliance with the regulations of this Ordinance then the Planning Commission shall issue a letter to the applicant detailing those elements of the Single-Family Development Plan not in compliance with the regulations of this Ordinance and issue a copy of said letter to the Town Council and Planning Commission.
- E. Duration, Revocation, Submission Deadlines & Extensions
  - See Table 4-2.

### **Section 4-3. Minor Lot Line Adjustment Plan**

- A. Purpose
  - 1. To provide the opportunity for applicants to make adjustments to existing lot lines; or to combine two (2) or more lots into one lot.
- B. When Required
  - 1. A Minor Lot Line Adjustment Plan is required prior to the submission of any plan or plans for improvements to a lot or lots which require any minor lot line adjustment(s). Original lot lines are considered what is currently platted and on record with the office of the Kent County Recorder of Deeds.
- C. Required Information
  - See Table 4-1.
- D. Application Review Process
  - 1. The Plan shall be submitted by the Applicant to the Administrator.
  - 2. The Administrator shall review the plan for compliance with the requirements of this Ordinance and forward the plan to the Town Engineer for review and comment.

3. Following the administrative review and the Administrator's review of the Town Engineers comments, the Administrator may approve the plan, deny approval of the plan, or the Administrator may elect to forward the plan to the Planning Commission for additional review. If the plan is approved, the Administrator shall issue the Applicant a letter of approval. If approval is denied, the Administrator shall issue a letter to the applicant, which documents the section(s) of this Ordinance with which the plan does not comply.
4. If the plan is forwarded to the Planning Commission for review, the applicant shall be notified of the date and time of the hearing at which it will be considered.
5. The Planning Commission may, by simple majority vote, approve the plan if it complies with the requirements of this Ordinance. If the Planning Commission approves the plan, they shall direct the Town Administrator to issue the applicant a letter of approval. If the Planning Commission denies approval of the plan, the Commission shall direct the Administrator to issue a letter to the applicant, which documents the section(s) of this Ordinance with which the plan does not comply.

#### **Section 4-4. Concept Plan**

- A. Purpose
  1. To provide the opportunity for applicants and the Planning Commission to review conceptual drawings in advance of a formal subdivision or site plan application.
  2. To encourage creativity on the part of the applicants and the Planning Commission by reviewing plans early in the design process, before considerable expense on engineered drawings has been incurred by the applicants.
- B. When Required
  1. The concept plan stage is optional.
  2. Concept plan review is to occur prior to any formal submission.
  3. The applicant may re-submit revised plans for concept plan review as many times as desired in the spirit of working collaboratively with the Planning Commission on design changes and creative concepts for development.
- C. Required Information  
See Table 4-1.
- D. Application Review Process
  1. The Concept Plan shall be presented and submitted by the applicant to the Planning Commission.
  2. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified comprehensive plan.
  3. If the Planning Commission finds the proposed plan to be consistent with the policies set forth in the Town's most recently Certified Comprehensive Plan, then the Planning Commission shall review the Concept Plan at their next regularly scheduled meeting.
  4. The Commission may make suggestions to the developer that will improve the project and/or bring the project more into compliance with the standards, goals, and intent of this Ordinance.
- E. Duration, Revocation, Submission Deadlines & Extensions  
See Table 4-2.

**Section 4-5. Minor Subdivision, Preliminary Major Subdivision, and Preliminary Site Plan**

A. Purposes

1. To guide the growth and development of the Town of Felton in accordance with the Comprehensive Plan.
2. To establish design standards and procedures for reviewing subdivision and site plans.
3. To encourage an orderly layout of land uses.
4. To ensure that public facilities are available and of sufficient capacity to serve proposed developments.
5. To minimize and manage the impact of development on air and quality, water, and other natural resources.

B. When Required

1. Prior to the submission of final major subdivision and site plans.
2. Prior to the recordation of minor subdivision plats.

C. Required Information

See Table 4-1.

D. Application Review Process

1. The Minor Subdivision Plan, Preliminary Major Subdivision Plan or Preliminary Site Plan shall be submitted by the applicant to the Administrator. The Town encourages the submission of the Minor Subdivision Record Plat concurrent with the submission of the Minor Subdivision Plan.
2. The Town Engineer shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified Comprehensive Plan. The Town Engineer shall review the plan and issue comments to the Administrator.
3. The Planning Commission shall review the plan and all review comments in accordance with the Guidelines for Development Review found in Section 4-1, B of this Ordinance. If a conditional review is necessary it will be held concurrent with the review of the plan. The Planning Commission shall develop recommendations for the Town Council. Minor Subdivision Plans shall not be forwarded to Town Council unless all permits and approvals from outside agencies have been submitted to the Town Engineer.
4. The Administrator shall forward any comments from the Town Engineer and the PLUS review, along with the plans to the Planning Commission.
5. State Planning Review. No plan shall be reviewed unless it complies with Title 29, Chapter 92 of the *Delaware Code*. The Town of Felton has signed a Memorandum of Understanding with the State Planning Office stating that there will be a PLUS review if the project has either 50 or more proposed dwelling units or 50,000 square feet or more of proposed buildings for commercial property.
6. The Town Council shall review the plan, review comments, and Planning Commission recommendations in accordance with the Guidelines for Development Review found in Section 4-1, B of this Ordinance. The Town Council may approve any plan that meets the provisions of this ordinance and the Guidelines for Development Review. The Town Council may withhold, postpone, or deny approval of any plan, which is not in compliance with the provisions of this Ordinance and may apply conditions of approval in accordance with the Guidelines for Development Review.
7. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining the signature of the Town Manager or designee on a Minor Subdivision Plan, or the submission of the final Site or Major Subdivision Plans.

8. The Town Council may assign responsibility for compliance with conditions of approval to the Administrator.
  9. Action  
The Town Council may by a simple majority vote approve the Minor Subdivision, Preliminary Major Subdivision or Preliminary Site Plan.
    - a. If a Preliminary Site Plan, Minor or Preliminary Major Subdivision Plan is approved, then the Town Council shall direct the Administrator to issue the applicant an approval letter. It shall then be the responsibility of the applicant to finalize the Minor Subdivision Plan (including any conditions of approval stipulated by the Planning Commission and/or the Town Council). The applicant shall submit the revised plan to the Administrator for the Town's records.
    - b. If a Minor or Preliminary Major Subdivision Plan is approved the Administrator shall instruct the applicant to begin the process for Plat Approval as described in Section 4-7. The approval of a Minor Subdivision Plan shall not be construed to exempt future developments on the lots in question from review. The regulations set forth by this Ordinance are a necessary prerequisite for the issuance of building permits.
    - c. If a Minor Subdivision, Preliminary Major Subdivision or Preliminary Site Plan is not approved; the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
  10. Minor and Major Subdivisions must follow the plat process as outlined in Section 4-7, Record Plat.
- E. Duration, Revocation, Submission Deadlines and Extensions  
See Table 4-2.

#### **Section 4-6. Final Site Plan and Final Major Subdivision Plan**

- A. When Required
  1. Prior to the issuance of building permits for site plans.
  2. Prior to the recordation of major subdivision plats.
- B. Required Information  
See Table 4-1
- C. Application Review Process
  1. The Final Site Plan and Final Major Subdivision Plan shall be presented and submitted by the applicant to the Administrator. The Town encourages the submission of the Major Subdivision Record Plat concurrent with the submission of the Major Subdivision Plan.
  2. The Town Engineer shall determine whether the plan is consistent with the approved Preliminary Plan. The Town Engineer shall review the plan and issue comments to the Administrator.
  3. The Administrator shall forward the Final Site Plan and the Final Major Subdivision Plan with all review comments to the Planning Commission.
  4. The Planning Commission shall review the plan and the review comments in accordance with the Guidelines for Development Review found in Section 4-1, B of this Ordinance. The Planning Commission shall not forward a Final Site Plan or Final Major Subdivision Plan to Town Council until copies of all agency (Kent Conservation District, State Fire Marshal, Office of Drinking Water, Kent County Engineering, Kent County Addressing, Delaware Department of Transportation, DNREC, ect.) approvals have been submitted. When the Planning Commission has received copies of all applicable agency approvals, the Planning Commission shall develop recommendations for the Town Council.
  5. The Town Council shall review the plan, the review comments, and Planning Commission recommendations in accordance with the Guidelines for Development Review found in

Section 4-1, B of this Ordinance. The Town Council may approve any plan that meets the provisions of this Ordinance and the Guidelines for Development Review. The Town Council may withhold, postpone, or deny approval of any plan which is not in compliance with the provisions of this Ordinance and may apply conditions of approval in accordance with the Guidelines for Development Review.

6. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance for a Final Site Plan, or the signature of the Town Manager or designee on a Major Subdivision Plan.
7. The Town Council may assign responsibility for compliance with conditions of approval to the Administrator.
8. Action  
The Town Council may by a simple majority vote approve the Final Site Plan or the Major Subdivision Plan.
  - a. No Final Site Plan, or Final Major Subdivision Plan shall be presented to Town Council for final approval until copies of approvals from all applicable reviewing agencies have been submitted to the Town; including but not limited to the Fire Marshal, Kent Conservation District, and the Delaware Department of Transportation.
  - b. If a Final Site Plan is approved, then the Town Council shall direct the Administrator to issue the applicant an approval letter. It shall then be the responsibility of the applicant to finalize the plan (including any conditions of approval stipulated by the Planning Commission and/or the Town Council).
  - c. Upon finding that the Final Site Plans are complete, the Administrator shall issue a Certificate of Zoning Compliance to the applicant. The applicant shall be responsible for presenting the Certificate of Zoning Compliance to the building permit authority in order to obtain a building permit.
  - d. If a Final Major Subdivision Plan is approved then the Town Council shall direct the Administrator to issue a letter of approval. The approval of a Final Major Subdivision Plan shall not be construed to exempt future developments on the lots in question from review by the regulations set forth by this Ordinance as a prerequisite for the issuance of building permits.
  - e. If a Final Major Subdivision or Final Site Plan is not approved; the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.

#### **Section 4-7. Record Plat**

- A. Definition & Purpose
  1. Definition. Map depicting the layout of a major or minor subdivision, containing information as set forth in Table 4-1.
  2. Purpose. To provide an additional level of review and legal documentation of the intended design of the subdivision.
- B. When Required
  1. Prior to the issuance of building permits for all minor subdivisions.
  2. Prior to the issuance of building permits for all major subdivisions.
- C. Requirements
  1. The applicant shall prepare a Record Plat in accordance with Table 4-1 and submit the Record Plat to the Administrator. The Administrator shall forward the Record Plat to the Planning Commission and the Town Engineer for review. The Engineer shall provide review comments to the Planning Commission and the Commission shall review the Plat for

compliance with the regulations of this Ordinance. The Planning Commission shall provide a recommendation to Town Council. No Record Plat shall be forwarded to Town Council for consideration unless all necessary Letters of No Objection and/or required permits and approvals accompany it from applicable agencies, but not limited to, the Delaware State Fire Marshal, Delaware Department of Transportation and the Kent Conservation District. **Note:** The Record Plat may be submitted concurrently with the minor or major subdivision submissions. In the case of a major subdivision, Record Plat submissions may begin with the preliminary submission and continue through the final submission.

2. The Town Council shall review the Record Plat, the Engineer's comments and the Planning Commission's recommendations for compliance with the regulations of this Ordinance. The Town Council may impose Conditions of Approval on the Record Plat consistent with the regulations of this Ordinance.
3. The Town Council may by simple majority vote approve the Record Plat.
  - a. If the Record Plat is approved, then Town Council shall direct the Administrator to issue a letter of approval to the applicant. It shall be the responsibility of the applicant to finalize the plan, including any Conditions of Approval stipulated by Town Council prior to obtaining the signature of the Town Manager or the designee on the Plat.
  - b. If the Record Plat is determined to be out of compliance with the regulations of this Ordinance then Town Council shall direct the Administrator to issue a letter to the applicant detailing those elements of the Record Plat not in compliance with the regulations of this Ordinance.
4. If approved, the applicant shall be responsible for recording the Record Plat at the Recorder of Deeds. All deed restrictions, covenants, and other legal documents related to the subdivision and/or required by the Town Solicitor shall be recorded with the Record Plat. No building permits shall be issued until the Plat has been lawfully recorded and the related minor subdivision or final major subdivision plan(s) have been approved.
5. Duration, Revocation, Submission Deadlines and Extensions  
See Table 4-2.

#### **Section 4-8. Conditional Uses**

##### **A. Definition & Purpose**

1. Definition. A use that is appropriate in a zoning district at a particular location only when certain criteria are met.
2. Purpose. To provide an additional level of review for these uses in order to determine their appropriateness at their proposed locations.

##### **B. Required Findings**

The Planning Commission shall review and make recommendations to the Town Council who shall determine whether each conditional use:

1. Is in harmony with the purposes and intent of the Comprehensive Plan;
2. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures;
3. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties;
4. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity;
5. Will have no detrimental effect on vehicular or pedestrian traffic;
6. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area;
7. Will not, in conjunction with existing, proposed, and potential development, overburden existing public services and facilities;

8. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Ordinance.

C. Action

1. The Town Council shall properly notice the conditional use hearing as a public hearing.
2. If the required findings of the conditional use are satisfied, then the Town Council may, by a simple majority, vote to approve the conditional use in question with any necessary conditions that address the required findings of a conditional use and/or address the health, safety, and general welfare of the community.
3. If the conditional use in question is not approved, then the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
4. The conditional use approval shall be tied substantially to the plan presented to the Town Council. Any change in use or alteration of the plan shall require a new conditional use hearing.

**Section 4-9. Historic District Review**

A. Purpose

1. To ensure the preservation of unique examples of historically, architecturally, and culturally significant structures and sites and to encourage their maintenance and restoration.
2. To guide the construction of new buildings and the alteration to existing buildings to ensure that they are in visual harmony with neighboring structures in the historic district.

B. When Required

1. Prior to the construction, alteration, repair, relocation, demolition or other change to the exterior appearance of a structure or property within the historic district.
2. Prior to the construction of a new structure within the historic district.
3. Prior to instituting a new use of land or buildings within the historic district.

C. Required Information

See Table 4-1.

D. Application Review Process

1. The application shall be presented and submitted by the applicant to the Planning Commission.
2. The signed application shall give the Planning Commissioners permission to inspect the exterior of any properties for which they have received application for the purpose of verifying information on the application or reviewing the site for any purposes relating to this Ordinance.
3. Following a review of the application, the Planning Commission may make one of the following recommendations in the form of a written report to the Town Council:
  - a. Recommend approval and/or a Compliance Letter for the application as presented;
  - b. Recommend that the application be denied;
  - c. Table the application to allow the applicant to make necessary revisions; or
  - d. Table the application at the request of the applicant.
4. The Town Council shall vote to approve or disapprove each of the Planning Commission's recommendations regarding the advisability of issuing an approval and/or a Compliance Letter.
5. An application, which is identical to a rejected application, may not be resubmitted within a period of one year after the rejection by the Town Council.
6. Appeals. In the event any party is aggrieved by any decision of the Town Council, the party has the right to appeal to the Board of Adjustments.

E. Violations and Enforcement

1. Failure to secure an approval and/or a Compliance Letter when required or failure to conform to the terms and conditions of any certificate of approval shall be a violation of this Ordinance and shall be subject to the sanctions and penalties for violation of building permit, demolition permit, or zoning requirements as set forth in the Felton Planning and Zoning Ordinance.

**Section 4-10. Administrative Reviews and Variances**

A. Variances

1. No application shall be considered by the Board of Adjustment until after first having been considered by the Planning Commission. The Planning Commission shall provide a copy of the letter of denial for the application.
2. Definition  
Relief from the strict application of the provisions of this Ordinance when, owing to special conditions or exceptional situations, a literal interpretation of this Ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of property.
3. The Board of Adjustment is responsible for considering requests for variances.
4. Required Findings  
The Board may authorize, in specific cases, such variance from the provisions of this Ordinance that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of this ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the Ordinance shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance.
5. Additional Standards
  - a. Use Variances Not Authorized. These provisions governing variances shall not be construed to permit the Board of Adjustment, under the guise of a variance, to authorize a use of land not otherwise permitted in this Ordinance.

B. Administrative Review

1. Purpose  
To provide a mechanism for appeals where an error is alleged in any interpretation, order, requirement, decision, or determination made by the Planning Commission in the administration of this Ordinance.
2. Procedure  
In order for the Board of Adjustment to conduct an administrative review:
  - a. The Administrator must issue a written interpretation, requirement, decision, or determination. The Administrator's written product must include information about the applicant's/property owner's situation, request, inquiry, etc. and references to pertinent sections of this Ordinance to support the interpretation, requirement, decision, or determination;
  - b. The Administrator must make every effort to present the written product to the applicant including, but not limited to, return receipt mailing;
  - c. The applicant must, by return receipt mailing or similar verifiable method, file a written request to the Town Council for Administrative Review within 30 days after receiving written notice of the Administrator's action.
3. Stay of Proceedings  
An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Board of Adjustment that a stay would cause imminent peril to

life or property. In such a case, proceedings shall be stayed only by a restraining order granted by the Board of Adjustment or a court having jurisdiction.

C. Application and Review Process

1. Application Filing

- a. Applications for administrative review and variances shall be submitted to the Administrator. The Administrator may provide forms to facilitate application processing.
- b. Applications shall be made in writing and shall provide the following information:
  - i. Information about the owner and applicant;
  - ii. Statement of the type of relief, explanation of hardship, permission, or review requested;
  - iii. Information about the property for which the application or review is being made;
  - iv. Information to support the application
    - (a) References to pertinent provisions of this Ordinance from which relief is being applied; or
    - (b) Identification of the provisions of this Ordinance, with which the application must comply, and statements as to how the application complies with those provisions.
  - v. Plans or drawings that support or clarify the relief or permission requested;
  - vi. Other information reasonably requested by the Board of Adjustment.

2. Burden of Proof on Applicant

An applicant for an administrative review or a variance shall have the burden of presenting the information needed by the Board of Adjustment to make a determination. No variance shall be authorized by the Board unless it finds:

- a. That the strict application of the Ordinance would produce undue hardship or exceptional practical difficulties;
- b. That such hardship is not shared generally by other properties in the same zoning district and vicinity.
- c. That the authorization of such variance will not be a substantial detriment to the public good or to adjacent property and that the character of the district will not be changed by the granting of the variance.

3. Board of Adjustment Hearing

- a. Scheduling. The Board of Adjustment shall schedule a public hearing on each application to occur as soon as practicable following the receipt of the application by the Administrator. Town Administration staff shall be responsible for all scheduling and notifications.
- b. Public Notice
  - i. Contents. The public notice shall specify the time, place, and nature of the hearing.
  - ii. How Given. At least 15 days prior to the public hearing, the following notices must be in place:
    - (a) Newspaper Publication. Legal notice in a newspaper of general circulation at least 15 days prior to a public hearing;
    - (b) Property Posting. For an application concerning specific property, a sufficiently large sign shall be posted on the subject property in a visible location;
    - (c) Town Hall. Notice shall be posted at a public place in town.
- c. Public Hearing
  - i. The hearing shall take place no less than 15 days following publication of the legal notice.
  - ii. The Board of Adjustment's hearing shall be conducted and applications shall be acted on as specified in Section 3-2 of this Ordinance.

- iii. The Board of Adjustment may attach conditions to approvals of applications.
- 4. Relationship to Development Plan Review
  - a. Approval of an application by the Board of Adjustment does not supersede or obviate the need for compliance with any other Development Plan Review standards or requirements.
  - b. The Board of Adjustment may condition approvals on satisfactory compliance with applicable Development Review standards.
- 5. Appeals
  - a. Appeals to Superior Court. Appeals of the Board of Adjustment's decisions shall be made to the Superior Court as provided in Title 22, Sections 328-332 of the *Delaware Code*.

**Table 4-1. Information Required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review**

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Single-Family Development Plan	Minor Subdivision	Preliminary Site Plan	Site Plan	Concept Plan	Preliminary Major Subdivision	Major Subdivision	Record Plat	Lot Line Adjustment	Historic	See also
<b>GENERAL INFORMATION</b>											
Name and address of owner and applicant	R	R	R	R	R	R	R	R	R	R	
Subdivision name		R			R	R	R	R	N/A		
Name, signature, license number, seal, and address of engineer or land surveyor involved in plan preparation	R	R	R	R		R	R	R	R		
Title block denoting type of application, tax map number, county, municipality, and street location	R	R	R	R	R	R	R	R	R	R	
A vicinity map at a scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, etc. within 500 feet; date of current survey		R	R	R	R	R	R	R	R		
Schedule of required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	R	R	R	R		R	R	R	R	R	Art 8
North arrow and scale	R	R	R	R	R	R	R	R	R		
Signature blocks for Town Manager and/Town Engineer		R	R	R		R	R	R	R		
Certification blocks for surveyor, and/or engineer, architect including: surveyor's or engineer's seal, signature, and certification statement that the final plat and/or plans, as shown, is a correct representation of the survey as made, that all monuments indicated thereon exist and are correctly shown and that the plat and/or plans complies with all requirements of this Ordinance and other applicable laws and regulations		R		R			R	R	R		
Locations and descriptions of all existing and proposed permanent survey monuments		R	R	R		R	R	R	R		Art 9, Sec 9-2C

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Single-Family Development Plan	Minor Subdivision	Preliminary Site Plan	Site Plan	Concept Plan	Preliminary Major Subdivision	Major Subdivision	Record Plat	Lot Line Adjustment	Historic	See also
Plan sheets no larger than 24 inches by 36 inches including a 1/2 inch margin outside of border lines; or other size acceptable to County	R	R	R	R	R	R	R	R	R	R	
Metes and bounds data showing dimensions, bearings, curve data, and centerline curves of streets. The horizontal datum must be noted on the plan.		R	R	R		R	R	R	R		
Acreage of tract to nearest tenth of an acre	R	R	R	R	G	R	R	R	R	R	
Date of original and all revisions		R	R	R	R	R	R	R			
Size and location of existing or proposed structures	R	R	R	R	G	R (Existing Only)	R (Existing Only)	R (Existing Only)	R (Existing Only)	R	Art 8
Proposed lot lines including distances and bearings and areas of lots in square feet with all setbacks dimensioned	R	R	R	R	R	R	R	R	R		Art 9, Sec 9-3
Locations and dimensions of existing and proposed streets, including typical cross-sections of proposed streets		R	R	R	G	R	R	R	R		
Copy and/or delineation of any existing deed restrictions or covenants	R	R		R			R	R	R	R	
Copies of and a summary of deed restrictions for the subdivision or site plan, including agreements for the operation and maintenance by the property owners or agency in the subdivision of common areas, open space, recreation facilities, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Town Council		R		R			R	R			
Owners' certification, acknowledging ownership of the property and agreeing to the subdivision and/or development thereof as shown on the plat and/or plans and signed by the owner(s)	R	R	R	R	R	R	R	R	R	R	

<b>Information Required for Development Plan Review</b> <b>Blank = No requirement</b> <b>G = General information</b> <b>R = Complete data or information required</b>	<b>Single-Family Development Plan</b>	<b>Minor Subdivision</b>	<b>Preliminary Site Plan</b>	<b>Site Plan</b>	<b>Concept Plan</b>	<b>Preliminary Major Subdivision</b>	<b>Major Subdivision</b>	<b>Record Plat</b>	<b>Lot Line Adjustment</b>	<b>Historic</b>	<b>See also</b>
Owners' statement dedicating streets and other public ways for public use (private streets are prohibited in the Town of Felton)						R	R	R			
Existing or proposed easements or land reserved for or dedicated to public use or to the residents of the proposed development		R	R	R	G	R	R	R	R		
Development or phasing plans		R			G		R				
Payment of application fees	R	R	R	R	R	R	R	R	R	R	
<b>SETTING/ENVIRONMENTAL INFORMATION</b>											
Property owners and lines of all adjoining/adjacent parcels including tax parcel number and zoning		R	R	R	G	R	R	R	R		
Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas adjacent to the site	G	R	R	R	G	R	R	R	R		
Water Resource Protection Areas	R	R	R	R	G	R	R	R	R		Art 12, Sec 1
Habitat for Rare and Endangered Species	R	R	R	R	G	R	R	R	R		
Location of all wetlands and supporting documentation	R	R	R	R	G	R	R	R	R		
Location of the 100-year floodplain based on current Flood Insurance Rate Map and Wetlands Certification Statement	R	R	R	R	G	R	R	R	R		
Existing rights-of-way and/or easements on or adjacent to the site		R	R	R	R	R	R	R	R		
Existing and proposed contour intervals based on topographic survey on one foot contour intervals. The vertical datum must be noted on the plan.		R		R	G		R				
Boundary, limits, nature and extent of wooded areas		R	R	R	G	R	R	R	R		
<b>IMPROVEMENTS AND CONSTRUCTION INFORMATION</b>											
Water supply and distribution plan	G	R	G	R		G	R				Art 11, Sec 11-3
Sewage collection plan	G	R	G	R		G	R				Art 11, Sec 11-4
Grading plan		R		R			R				Art 12

<b>Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required</b>	<b>Single-Family Development Plan</b>	<b>Minor Subdivision</b>	<b>Preliminary Site Plan</b>	<b>Site Plan</b>	<b>Concept Plan</b>	<b>Preliminary Major Subdivision</b>	<b>Major Subdivision</b>	<b>Record Plat</b>	<b>Lot Line Adjustment</b>	<b>Historic</b>	<b>See also</b>
Permanent storm water management plan		R	G	R		G	R				Art 12, Sec 3
Proposed storm sewer and catch basins including pipe and structure schedules		R		R			R				
Storm sewer calculations for the two, ten and 25 year storm events		R		R			R				
Landscape plan		R		R			R				Art 12, Sec 6
Existing utility infrastructure on or adjacent to the site including water, sewer, storm sewer, gas, telephone, electric, cable TV		R	R	R	G		R	R	G		Art 11, Sec 7
Site identification signs, traffic control signs, and directional signs		R		R	G		R				Art 13
Parking and loading spaces showing, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions		R	R	R		R	R				Art 14
Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations		R		R			R				
Spot elevations at low points, high points, points of curvature and tangency of all streets.							R				
Construction details, such as cross sections and profiles of all proposed streets and storm water management facilities, utility details, etc.			R			R	R				Arts 11-12
Proposed street names, as approved by Kent County 911 Addressing					G		R	R			Art 10, Sec 1A
Lots numbered in consecutive numerical order		R				R	R	R			
Description of work to be done, including current photographs, sketches or architect's renderings of planned changes along with dimensions of proposed changes, a description of the type and texture of materials to be used										R	

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Single-Family Development Plan	Minor Subdivision	Preliminary Site Plan	Site Plan	Concept Plan	Preliminary Major Subdivision	Major Subdivision	Record Plat	Lot Line Adjustment	Historic	See also
Any other information required by the Town of Felton, the County, or other departments and agencies involved in approval of plans	R	R	R	R	G	R	R	R	R	R	Art 12

**Table 4-2. Deadlines & Duration of Single-Family Development, Minor Subdivision, Site Plan, Major Subdivision, Record Plat, and Historic Review**

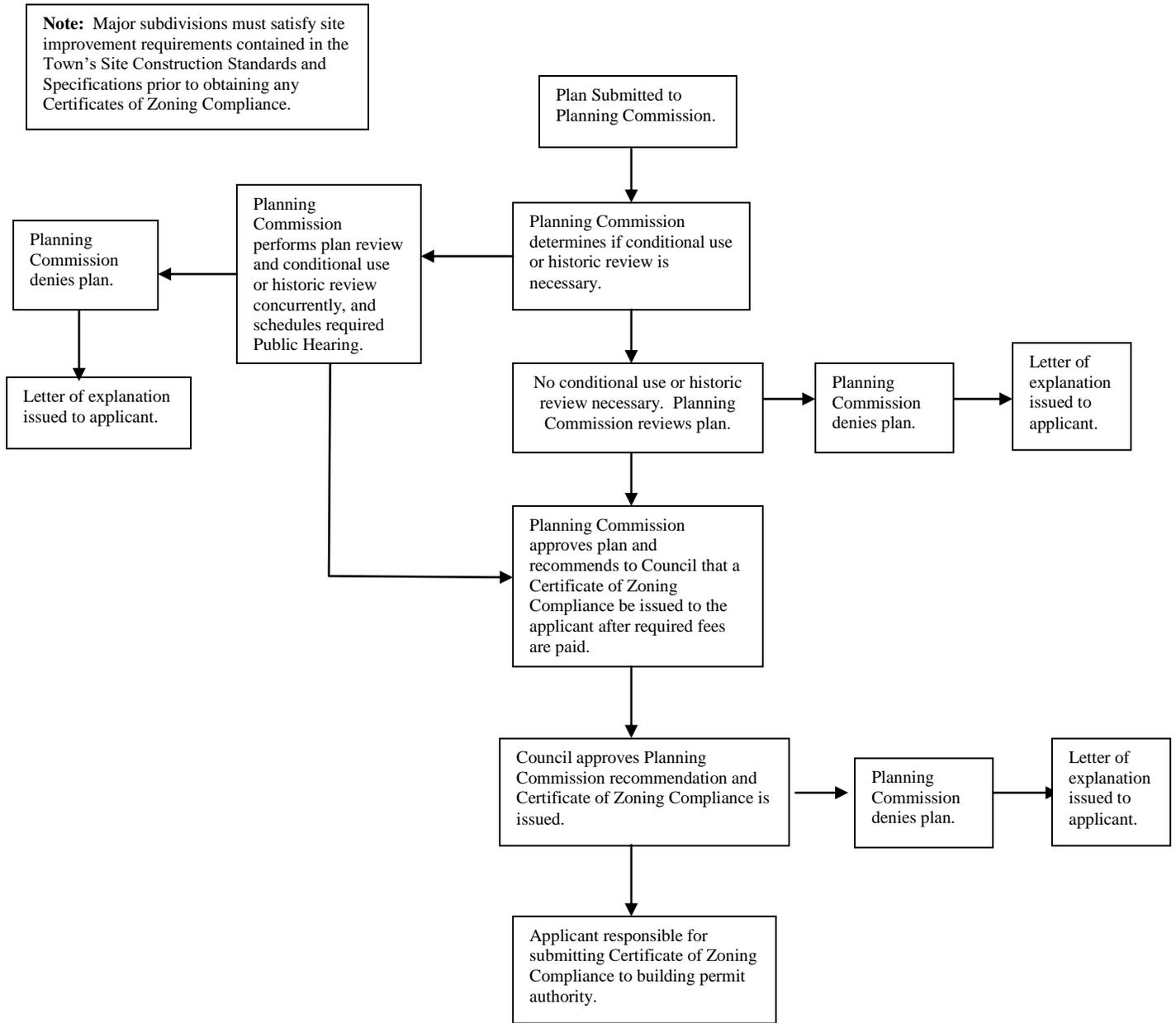
Item	Single-Family Development Plan	Minor Subdivision	Preliminary Site Plan	Site Plan	Preliminary Major Subdivision	Major Subdivision	Record Plat	Lot Line Adjustment	Historic
Deadline for submitting plan to Planning Commission before next Planning Commission meeting	15 days	21 days	21 days	21 days (21 days)	21 days	21 days	21 days	21 days	15 days
Deadline for acting on plan following Town Council meeting	45 days if conditional use	60 days	60 days <sup>1</sup>	60 days	60 days <sup>1</sup>	60 days	60 days	60 days	60 days <sup>1</sup>
<sup>2</sup> Duration of plan approvals beginning at approval or recordation date	1 year	5 years	1 year	1 year	1 year	5 years	5 years	N/A	1 year
<sup>3</sup> Number and duration of extensions permitted, provided that the applicant can demonstrate that delays were beyond his/her control	One (1) extension of 6 months	One (1) extension of 6 months	One (1) extension of 6 months	One (1) extension of 6 months	One (1) extension of 6 months	One (1) extension of 1 year	None	N/A	One (1) extension of 6 months

<sup>1</sup> Ninety (90) days if a conditional use hearing is required.

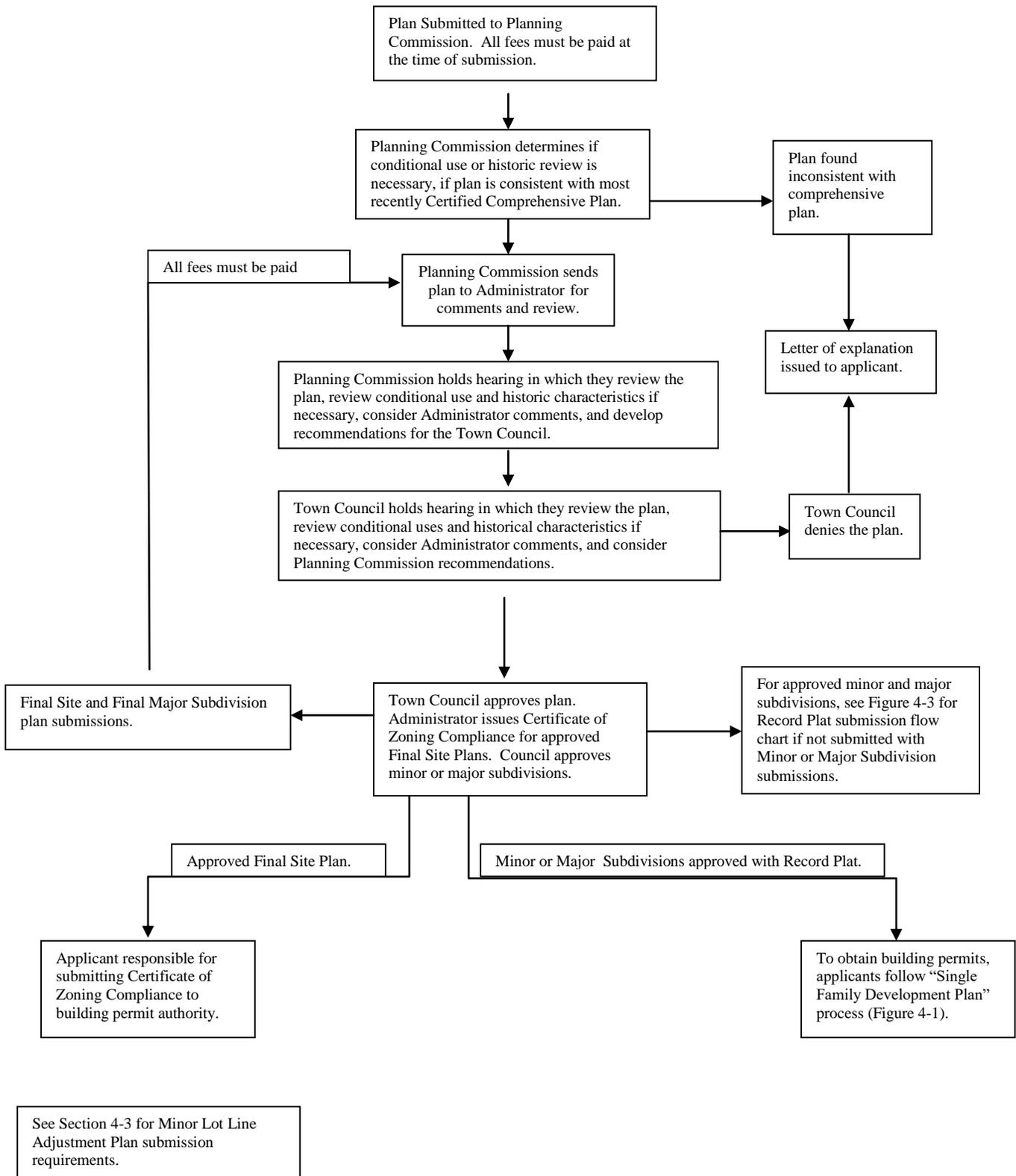
<sup>2</sup> Duration of plan approval shall indicate the maximum allowable time period between approval of the plan(s) by the Town and the submission of final site or major subdivision plans, in the case of preliminary plans; or the commencement of the construction of improvements for all other submissions.

<sup>3</sup> Additional extensions will be at the discretion of Town Council.

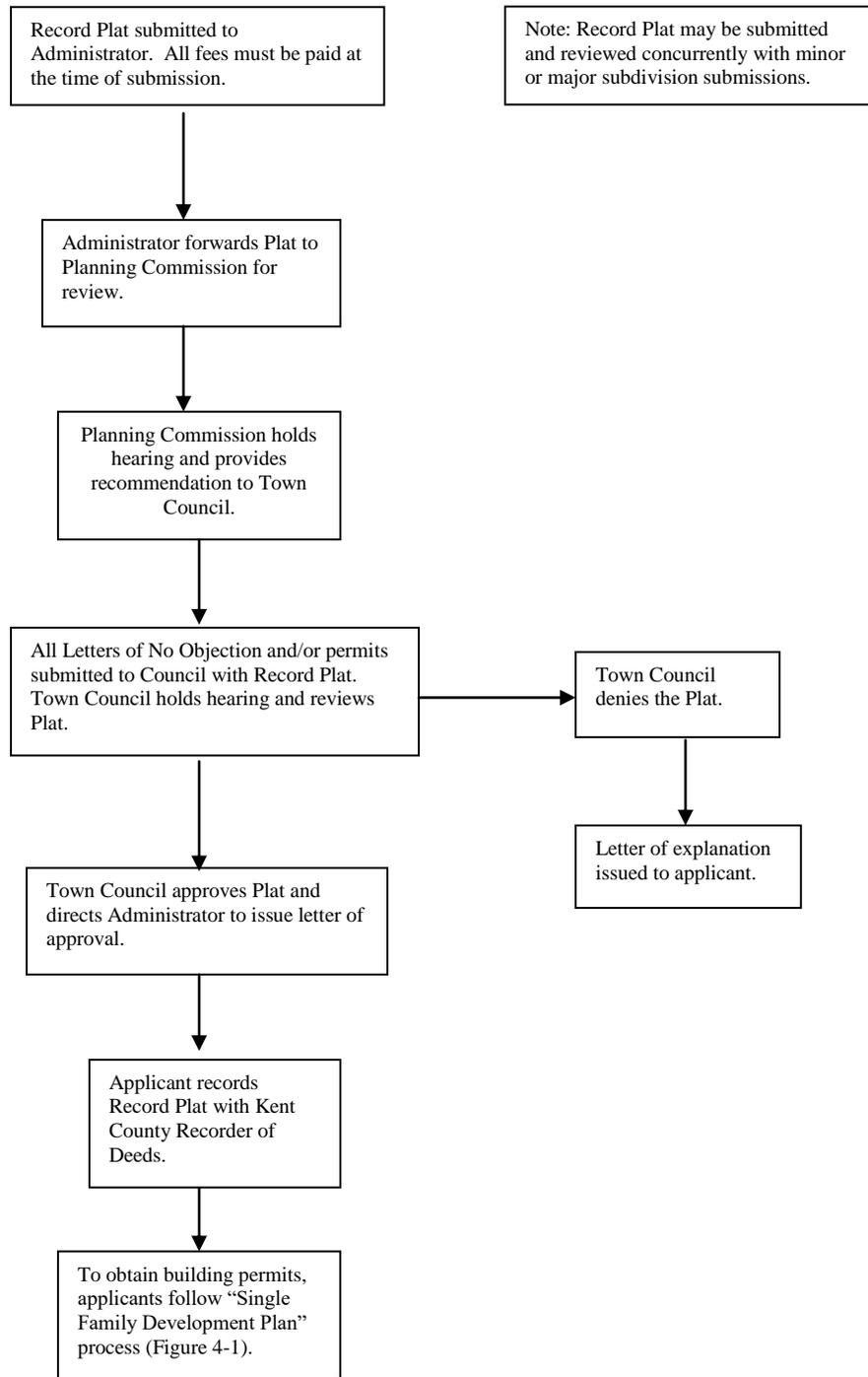
**Figure 4-1. Single-Family Development Plan Approval**



**Figure 4-2. Minor Subdivision, Preliminary & Final Major Subdivision, and Preliminary & Final Site Plan Approval**



**Figure 4-3. Record Plat Approval**



## **Article 5. Non-Conforming Situations**

### **Section 5-1. Definition & Intent**

- A. Definition  
Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance.
- B. Intent  
Nonconforming uses or structures may continue until they are removed, or until they have been abandoned by none use for a period of greater than one year.

### **Section 5-2. Nonconforming Lots**

- A. Definition  
A lot, whose area and/or dimensions were lawful before this Ordinance was adopted, revised or amended, but does not meet the current lot area and/or lot dimensions standards of this Ordinance.
- B. Nonconforming Legal Lots
  - 1. Definition. A nonconforming legal lot is a nonconforming lot of record, whose owner or ownership entity does not own or control adjacent property.
  - 2. Applicability. Zoning districts where single-family dwellings are permitted.
  - 3. Regulation. A nonconforming legal lot may be developed without a variance, with a single-family home, including customary accessory structures, as long as it complies with the dimensional and density standards of this Ordinance, other than lot area and/or lot width.
- C. Other Situations
  - 1. Where a property owner owns land adjacent to a single nonconforming lot, the adjacent land must be added to the nonconforming lot and re-platted so that the resulting lot conforms to the standards of this Ordinance. Any residual property must be a conforming lot.
  - 2. Where a property owner owns land adjacent to a group of nonconforming lots, the lots must be re-platted to conform to the standards of this Ordinance.
  - 3. Adjacent nonconforming lots of record owned by the same owner or ownership entity, may not be sold to different purchasers in order to subvert the intent of this Ordinance.

### **Section 5-3. Nonconforming Structures**

- A. Definition  
A structure, whose dimensional and density characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the dimensional and density standards of this Ordinance.
- B. Continued Existence  
A nonconforming structure may be continued under the following conditions:
  - 1. Normal repair and maintenance is permitted;
  - 2. A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity;
  - 3. Nonconforming structures may not be used as grounds for the addition of other structures or uses that do not conform to the standards of the zoning district;
  - 4. If a nonconforming structure is moved, it must be located in a manner that conforms to the requirements of the zone in its new location.
- C. Termination of Legal Nonconforming Status
  - 1. When a nonconforming structure or a nonconforming portion of a structure is destroyed by any means by more than 50% of its original floor area at the time of destruction, its legal,

nonconforming status is terminated unless reconstruction of the structure on the same footprint commences within twelve months time of said destruction.

2. In the historic district overlay when a nonconforming structure or a nonconforming portion of a structure is destroyed by any means and by more than 50% of its original floor area at the time of destruction, any nonconforming status is terminated. Structures other than mobile homes or manufactured homes that are nonconforming in regards to the bulk requirements of this Ordinance may be reconstructed on the same footprint provided that construction commences within twelve months time of said destruction.
3. In the historic district overlay when a nonconforming mobile home or manufactured home is destroyed by any means and by more than 50% of its original floor area at the time of destruction its nonconforming status is terminated.
4. If any nonconforming structure is found to have been destroyed by voluntary act of the owner, to any extent, for the purpose of replacement, the non-conforming status shall be terminated.
5. Any subsequent use of such land shall conform to provisions of this Ordinance.
6. Manufactured homes removed for any reason after the effective date of this Ordinance may only be replaced by homes meeting the requirements of this Ordinance.

#### **Section 5-4. Nonconforming Uses**

A. Definition

A use or activity, that was lawful before this Ordinance was adopted, revised, or amended, which is not permitted under the Use Regulations of this Ordinance.

B. Continued Existence

Although nonconforming uses are incompatible with permitted uses in their respective districts, a nonconforming use may continue under the following conditions:

1. The use or portions of the structures accommodating the use may not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the date when this Ordinance is adopted or amended;
2. The use may not be relocated or partially relocated from its location after the date when this Ordinance is adopted or amended unless it is placed in a zoning district that allows such use.

C. Termination of Legal Nonconforming Status

1. When a nonconforming use of land ceases for any reason for a period of more than 12 months, or if the structure housing the nonconforming use is expanded for the purpose of expanding the area of the use its legal, nonconforming status is terminated.
2. Any subsequent use of such land shall conform to provisions of this Ordinance.

#### **Section 5-5. Nonconforming Signs**

A. Definition

A sign, whose characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the current standards of this Ordinance.

B. Continued Existence

A nonconforming sign may be continued under the following conditions:

1. Normal repair and maintenance is permitted;
2. A nonconforming sign may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity;
3. Nonconforming signs may not be used as grounds for permission to construct additional signs that do not conform to the standards of this Ordinance.

C. Termination of Legal Nonconforming Status

1. When a nonconforming sign is damaged or destroyed, by any means by more than 50% of its original mass at the time of destruction, its legal, nonconforming status is terminated.

2. Any subsequent sign shall conform to provisions of this Ordinance.
3. If any nonconforming sign is found to have been destroyed by voluntary act of the owner, to any extent, for the purpose of replacement, the nonconforming status shall be terminated.
4. When the establishment to which a nonconforming sign is attached to ceases to operate for a period of more than twelve months, its legal, nonconforming status is terminated.

**Article 6. Zoning Districts & Map**

**Section 6-1. Establishment of Zoning Districts**

**A. Base Zones**

Comp Plan Land Uses	Zoning District	Purpose	Typical Kinds of Uses in Zone
Residential	R-1 Town Residential	To accommodate existing residential lots in town. To maintain the community's small-town character. <b>NOTE: No property shall be granted a request for a change of zone to R-1.</b>	Single-family detached homes
Residential	R-2 Residential	To provide sufficient space for new residential development and customary accessory uses. To preserve the community character, allow continued agricultural uses, and accommodate subdivisions consistent with the character of the town.	All permitted R-1 uses plus modular and multi-family converted homes (older homes converted to two-family dwellings).
Residential	R-3 Multi-Family Residential	To provide multi-family housing opportunities in appropriate locations throughout the town. To provide alternative to single family detached homes.	All permitted R-1/R-2 uses plus apartment buildings and townhouses.
Residential Commercial Mix	R-4 Planned Residential Community	To provide an area where community compatible commercial development can be incorporated into a large scale mixture of single-family and multi-family residences provided that the location and scope of such a use is consistent with the goals of the Comprehensive Plan.	All permitted R-3 uses plus a sparse mixture of commercial uses.
Commercial	C-1 Community Commercial	Mix uses, relax development standards and parking (a) To encourage a mix of retail, office, and residential uses consistent with the existing scale and character of the area in order to promote the economic stability of the area. (b) To provide for a limited amount of apartment dwellings in conjunction with retail, office, and service uses, but only above the first story of commercial or office buildings. (c) To provide for the continuation and improvement of existing residential uses. (d) To encourage re-development by permitting residential structures to be used wholly or partially for permitted non-residential uses. To provide a modification procedure, utilizing site plan review, to alleviate difficulties relating to parking and other Property Development Standards.	Typical old "downtown" area where homes, businesses, and civic uses are side-by-side, and many cannot comply with current bulk standards
Commercial	C-2 Commercial	To accommodate commercial business and service uses in appropriate locations throughout the town. To provide employment and to meet the needs of the residents in the town and surrounding areas.	Retail stores; offices; wholesale and service establishments
Industrial	LI Light Industrial	To accommodate light industrial businesses that will provide employment. To allow only for light industrial uses which do not have adverse impacts on adjacent uses, residences, the transportation system, or the natural environment.	Small repair or fabrication operations; small manufacturing facilities
Agriculture	AG Agriculture	To protect the natural environment associated with the town. To promote the continuance of economically viable agriculture practices.	Wetlands and river buffers; farming operations

**B. Historic District Overlay Zone**

Comp Plan Land Uses	Overlay Zone	Purpose	Typical Kinds of Uses in Zone
Residential, Town Center, Commercial, Mixed Use, or Office	H Historic District	To ensure the preservation of unique examples of historically, architecturally, and culturally significant structures and sites and to encourage their maintenance and restoration. To guide the construction of new buildings and the alteration to existing buildings to ensure that they are in visual harmony with neighboring structures in the district.	Historic structures and features including homes, businesses, institutions

**Section 6-2. Specific Requirements, by Zone**

- A. R-1 Town Residential
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
- B. R-2 Residential
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
- C. R-3 Multi-Family Residential
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
  - 3. General Requirement. No more than six (6) town house units are permitted in any one connected group of town homes.
- D. R-4 Planned Residential Community
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
  - 3. General Requirements
    - a. Residential uses shall adhere to the standards for R-3 as specified in Table 8-1.
    - b. Commercial uses shall adhere to the non-residential portion of the standards for C-1, as specified in Table 8-2.
    - c. A minimum total size of 20 acres shall be required for development under this zone.
    - d. The minimum ratio of residential units to commercial uses shall be 50:1.
    - e. Parking requirements for residential and commercial uses shall be as specified in Table 14-1.
  - 4. Conditional Uses. For conditional uses see Table 7-1.
- E. C-1 Community Commercial
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
- F. C-2 Commercial
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
- G. LI Light Industrial
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
- H. AG Agriculture
  - 1. Permitted Uses. For permitted uses see Table 7-1.
  - 2. Accessory Uses. For accessory uses see Section 7-3.
- I. H Historic District Overlay Zone
  - 1. Establishment of the Zone. The Town of Felton Historic District Overlay Zone is hereby established, as shown on the map attached to this Ordinance entitled Historic Overlay Zone.
  - 2. The map adopted as part of this Ordinance shall be definitive as to the boundaries of the District and such map shall constitute the Historic District Overlay Zone.
  - 3. Permitted Uses. Any use permitted by the underlying zoning category as detailed in Article 7.
  - 4. Accessory Uses. For accessory uses see Section 7-3.
  - 5. Criteria for Application. The following actions do not require a formal review:
    - (1) Replacement, maintenance and repair of existing roof material or structures, windows, doors, or siding, provided the applicant can verify that the same type of material(s) as are currently present on the structure will be used, insuring that the exterior appearance of the structure will not be altered;

- (2) Change of paint color.
6. Historic Review Application. The following principles shall be followed in the granting of a Certificate of Approval within the Historic Overlay District:
- a. When reviewing applications pertaining to all structures included on the National Register Historic District in the Town of Felton and to all other properties in the Historic Overlay District, the Planning Commission shall make a finding that the project in question is consistent with the historic character of the district as a whole and may base its findings on any one or all of the following criteria:
    - i. The purposes of this chapter;
    - ii. The Comprehensive Plan adopted by the Town of Felton Town Council;
    - iii. Specific guidelines developed after a professional analysis of the Town's historic properties.
    - iv. The documentation establishing the National Register Historic District in the Town of Felton;
    - v. The Secretary of the Interior's Standards for Rehabilitation and relating to the treatment and preservation of historic structures and places;
    - vi. Historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;
    - vii. General compatibility of exterior design, arrangement, texture and materials proposed to be used with other structures contributing to the established historic character of the Town of Felton Historic district. Historic characteristics include: architectural style, design, height, bulk, setbacks, arrangements, location, and materials;
    - viii. Structures of importance because of a particular moment in history, because of the date of their construction, or because of their unique example of a historical style should be altered, only to retain their original appearance or to be more in conformity with the appearance of the time period from which they are historically valuable;
    - ix. Structures merely typical of their age and style should be altered in a fashion of that age and style, if in keeping with the character of the district;
    - x. New structures and buildings and those being moved into the district from outside the district must conform in general size, scale, style, and landscape and should be similar to the existing structures in the district;
    - xi. Demolition. When application is made to demolish a structure or any part thereof, or to move a historic structure, the potential loss of history to its original site and to the Historic District as a whole, the structural condition, the economic feasibility or alternatives and the reasons for not maintaining the structure at its present site shall be considered.
7. Ordinary Maintenance and Repair Required. No owner of real property in a Historic District shall permit such structure to fall into a state of disrepair so as to produce a detrimental effect on the character of the district or the structure.
8. Consistency With Other Codes and Ordinances. All underlying Codes and Ordinances of the Town of Felton relating to properties or actions within the Historic District shall remain in force and effect, the provisions of this section being supplemental thereto. In the event of a conflict between these provisions and the Code of the Town of Felton, the more restrictive shall apply.

### **Section 6-3. Zoning Map**

#### **A. Interpretation of Zoning Map**

The incorporated area of the Town of Felton is divided into the zoning districts shown on the official zoning map. This map and its accompanying notations are adopted by reference and are declared to be a part of this Ordinance.

B. Uncertainty as to Boundaries

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
2. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated, as approximately following Town of Felton or County limits shall be construed as following Town of Felton or County limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.
6. Boundaries indicated, as approximately following the centerlines of streams, lakes, or other bodies of water shall be construed as following such centerlines;
7. Boundaries indicated as parallel to or extensions of features described in this subsection shall be so construed. The scale of the map shall determine distances not specifically indicated on the official zoning map;
8. Where physical or cultural features existing on the ground differ from those shown on the official zoning map, or in other circumstances not covered by this subsection, the Planning and Zoning Commissioners shall interpret the zone boundaries.

C. Errors or Omissions

If because of error or omission the Zoning District Map does not show a property as being in a zoning district, such property shall be classified in the least intense zoning district until changed by amendment.

D. Parcels Split by Zoning Districts

Where a zoning district boundary divides a lot tract, parcel or property, the location of the district boundary, unless the zoning map indicates its dimensions, shall be determined by applying the map scale shown on the zoning map scaled to the nearest foot.

## Article 7. Use Regulations

### Section 7-1. Permitted Uses and Structures

Permitted uses and structures for all zoning districts can be found in Table 7-1.

### Section 7-2. Interpretation of Uses

#### A. General

A use not specifically listed as permitted in a zoning district is prohibited unless determined similar in accordance with Subsection B below.

#### B. Determination of Similar Uses

##### 1. Determination of Similar Uses

a. A determination as to whether a use is similar to a use permitted by right shall be considered an expansion of the use regulations of the zone and not as a variance applying to a particular situation.

##### b. Application

i. All applications for permits involving uses not specifically listed among the uses permitted by right in any zone shall be submitted to the Planning Commission.

ii. The Planning Commission shall have the authority to determine that a use is similar to a use permitted by right.

iii. The applicant may appeal the decision of the Commission by applying to the Board of Adjustment.

##### c. Standards Governing the Determination of Similar Use

i. That the use closely resembles and contains the same characteristics as the classification to which it is to be added.

ii. That the use does not create dangers to health and safety, and does not create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.

iii. That the use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.

d. The determination of similar uses shall not be construed to exempt applicants from complying with the regulation of off-street parking and signs set forth in this ordinance.

### Section 7-3. Accessory Uses

#### A. Definition

A use is an accessory use if it meets all of the following criteria:

1. Is incidental and subordinate to the principal use;

2. Is customary to the principal use;

3. Is operated and maintained under the same ownership and on the same lot as the principal use;

4. Does not include structures or structural features inconsistent with the principal use; and

5. Does not include overnight lodging for anyone other than members of the household in which the accessory use is conducted.

#### B. Where Permitted

Except as otherwise provided, accessory uses are permitted in all zones.

### Section 7-4. Home-Based Businesses

Any business, occupation, or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit. These uses shall be allowed as conditional uses only.

#### A. Permitted Home-Based Businesses

1. Offices for professionals including architects, brokers, counselors, clergy, dentists, doctors, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons and manufactures' representatives, travel agents.
2. Personal services including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, catering and chauffeuring services.
3. Instructional services including music, dance, art and craft classes, tutoring.
4. Studios for artists, sculptors, musicians, photographers, and authors.
5. Workrooms for tailors, dressmakers, milliners, and craft persons including weaving, lapidary, jewelry making, cabinetry, and woodworking.
6. Repair services including watches and clocks, small appliances, computers, electronic devices, lawnmowers, and small engines.
7. Adult/Child Day Care
8. Bed & Breakfast

#### B. Prohibited Home-Based Businesses

1. Kennels, veterinary clinics and hospitals.
2. Medical clinics, dental clinics, hospitals.
3. Restaurants, bars, and nightclubs.
4. Funeral homes and undertaking establishments.

#### C. Operational Standards

1. Operating Hours
  - a. General Standard. Customer and client visits to the home-based business are limited to the hours from 8:00 A.M. to 8:00 P.M.
  - b. Additional Provisions
    - i. These operational standards recognize that some home-based businesses occasionally rely on client/customer visits that begin before 8 A.M. and last beyond 8:00 P.M. Examples of such home-based businesses include babysitting services, instructional services, "Tupperware parties," and party planning businesses.
    - ii. Businesses such as those listed in the previous subsection shall be considered as operating within the home-based business standards as long as they do not cause undue traffic congestion, and comply with the standards governing equipment used or operated by home-based businesses.
2. Employees
  - a. On-Premise Employees. A home-based business shall have not more than one non-resident employee on the premises at any one time.
  - b. Off-Premise Employees. The number of non-resident employees working at locations other than at the home-based business is not limited.
3. Equipment. Equipment used in, and the operation of a home-based business, shall not:
  - a. Create any vibrations, heat, glare, dust, odors, or smoke discernible at the property lines;
  - b. Generate noise that violates any Town of Felton Ordinance or regulation pertaining to noise;
  - c. Create any electrical, magnetic or other interference off the premises;

- d. Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties;
  - e. Use and/or store hazardous materials in excess of quantities permitted in residential structures.
4. Signs. See Article 13, Signs in this Ordinance.

**Table 7-1. Permitted Uses & Structures**

Blank =Not permitted P =Permitted use SP =Site plan review required, see Sec. 4-5 CU =Conditional use, see Sec. 4-8	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone C-1	Zone C-2	Zone LI	Zone AG
<b>Agriculture-Related Uses</b>								
Farms, customary and conventional farming operations including the raising of vegetables, flowers, and horticultural materials; not to be construed to include commercial poultry and swine production, cattle feeder lots, and fur bearing animal farms		P			CU			P
Farms, housing or raising of livestock for commercial or non-commercial purposes								P
Greenhouse, commercial					P	P		P
<b>Residential Uses</b>								
Apartment above commercial or office uses					P			
Bed & Breakfast	CU				P			
Dwelling, Two-Family (multi-family converted)		P	P	P				
Dwelling, Duplex			P	P				
Dwelling, Multi-family			P	P				
Dwelling, Single Family, including modular homes	P	P	P	P	P			P
Dwelling, Townhouse			P	P				
Home-based business	CU	CU	CU		CU			
Hotel, motel						P		
<b>Sales &amp; Rental of Goods, Merchandise, and Equipment</b>								
Convenience store					P	P		
Retail food establishments				P		P		
Retail sales establishments						P		
Supermarket				P	P	P		
Restaurant				P	P	P		
Wholesale trade establishment						P		
<b>Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods and Services</b>								
Business service establishments				P	P	P		
Offices				P	P	P	P	
Miscellaneous service establishments				P	P	P		
Personal service establishments				P	P	P		
Retail service establishments				P	P	P		
Social service establishments				P	P	P		
<b>Manufacturing, Assembling, Processing</b>								
Manufacturing establishments							P	

Blank =Not permitted P =Permitted use SP =Site plan review required, see Sec. 4-5 CU =Conditional use, see Sec. 4-8	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone C-1	Zone C-2	Zone LI	Zone AG
<b>Educational, Cultural, Religious, Philanthropic, Social, Fraternal</b>								
Club, private such as golf, swimming, and tennis clubs, lodges, and other annual membership clubs				P		P		
Educational institutions, public and private	CU			CU	CU			P
Places of worship	CU	CU	CU	CU	CU			P
<b>Institutional, Residence, Care, Confinement &amp; Medical Facilities</b>								
Day care center, Adult	CU	CU	CU	P <sup>1</sup>				
Child care, home (1-9 children)	CU	CU	CU					
Child Day Care Center (10 or more children)				P <sup>1</sup>		P		
Hospital						P		
Medical clinic						P		
Nursing and care facilities						P		
Surgical center						P		
Fitness / wellness center				P	P	P		
<b>Transportation-Related Sales &amp; Service</b>								
Motor vehicle filling stations						P	P	
Motor vehicle sales, repair, service and storage						P	P	
Carwash					P	P		
<b>Storage &amp; Parking</b>								
Distribution center						P	P	
Garage, public or commercial parking					P	P	P	
Self-storage facility						P	P	
Warehouse						P	P	
<b>Public, Semi-Public, Emergency</b>								
Government facilities and services, local	CU	CU		CU	P	P		CU
Government facilities and services, non-local	CU	CU		CU	P	P		CU
Parks & open space	P	P	P	P	P	P		P
Public safety facilities including, ambulance, fire, police, rescue, and national security	CU	CU	CU	CU	CU	CU		
Public utility service facilities	CU	CU	CU	CU	CU	CU	P	P
Recreation facility/Community Center	CU	CU	CU	CU	CU	CU		CU
<b>Not Grouped Elsewhere</b>								
Funeral home	CU				P	P		
Veterinary clinics, animal hospitals, or commercial kennels, provided that no open pens, runs, kennels or cages are located within 100 feet of land that is used or zoned residential						P	P	

<sup>1</sup>Must be located in the commercial component.

**Article 8. Dimensional & Density Standards**

**Section 8-1. Basic Dimensional & Density Standards**

- A. Residential Zones. See Table 8-1.
- B. Non-Residential Zones. See Table 8-2.
- C. Accessory Buildings & Structures. See Table 8-3.
- D. Projections into Required Yards. See Table 8-4.

**Section 8-2. Supplemental Dimensional & Density Standards**

- A. Structures to Have Access
  - 1. Lots on which new structures are built or to which a structure is relocated must be adjacent to, and have access to, a public street. No residential lot shall be permitted permanent access to more than one public street.
  - 2. Structures shall be placed on lots in a manner that provides safe and convenient access for utility servicing, fire protection, and required off-street parking.
- B. Fences, Walls, Hedges & Shrubbery
  - 1. Setbacks. Fences, walls, hedges, and shrubbery may be placed anywhere on a residential lot as long as they comply with the height limitations stated in this subsection; and as long as they are not placed over, or close enough to cause interference to, any under or above ground utilities.
  - 2. Height limitations for fences and walls
    - a. Front/Road Frontage property line. Fences shall not exceed 4 feet in height.
    - b. Side property line. Shall be a maximum of 6 ½ feet in height up to the front set back line; thereafter the maximum height shall be 4 feet.
    - c. Corner side property line. Shall be a maximum of 6 ½ feet in height and shall meet visibility requirements as set forth in Section 8-2, C.
    - d. Rear Property Line. Shall be 6½ feet.
  - 3. Non-Residential Uses. The Planning Commission may allow or require fences, walls, hedges, or shrubbery that are higher than the limitations stated in this subsection. In making such a determination, the Planning Commission must find that exceeding the height limitations is necessary due to the type of use, security concerns, or the protection of adjacent properties.
- C. Visibility at Intersections within “Sight Triangle”
 

At street intersections, nothing shall be built, placed, planted, or allowed to grow higher than 3 feet above the curb level within the “sight triangle” measured along the right-of-way lines of the intersecting streets for a distance of 30 feet from the point where the backs of curb would form an intersection and formed by connecting the respective 30-foot distances. Obstructions existing at the time this Ordinance is adopted may remain. Sight triangles for alleys shall have legs of 20 feet in length. See Figure 8-3.
- D. Height Limit Exemptions
 

The building height limitations of this Ordinance do not apply to appurtenances usually required to be placed above the roof level and not intended for human occupancy. Such appurtenances include, but are not limited to, the following:

Belfries	Public monuments
Chimneys	Radio and television antennas for residential use
Cupolas	Smoke stacks
Flag poles	Spires
Ornamental towers	Water towers

- E. Landscape Screen. May be required at the discretion of the Planning Commission. The Planning Commission may not require landscape screening on individual single-family lots unless it was a requirement of the major subdivision approval process. It may also be required if there is a home based business for which the Commission deems the screen necessary.
- F. Existing Setback  
No proposed structure need have a front yard setback greater than the average setback of the two existing structures with the greatest setbacks within two hundred (200) feet on each side of the said proposed structure on the same side of the street. All other setbacks shall be as set forth in this Ordinance. The Planning Commission shall have final discretion of all existing setback exceptions.
- G. Swimming Pools
  - 1. Placement – Every swimming pool shall comply with the following requirements:
    - a. Be located on a lot on which there is situated a dwelling;
    - b. Not be located within a front yard.
  - 2. Fencing and Barrier Requirements for Swimming Pools, Spas and Hot Tubs.
    - a. All swimming pools shall be enclosed by a fence at least 54 inches in height, with a maximum vertical clearance of two inches between grade and the bottom of the fence, have no openings in the wall, fence or barrier through which a spherical object four inches in diameter can pass, and shall be constructed a minimum of five feet from the edge of the pool.
    - b. Fences shall be constructed of a material that makes it difficult for a person or child to pass through, go under or climb over. The wall, fence or barrier shall not contain openings, handholds or footholds accessible from the exterior side of the enclosure that can be used to climb the wall, fence or barrier.
    - c. The edge of the pool shall be kept a distance of not less than ten (10) feet from all property lines and the main dwelling.
  - 3. Gates shall comply with fence requirements listed in 1 and 2 above. Access gates for all outdoor pools shall open outwards away from the pool and shall be self-closing and have a self-latching device. Where the release mechanism and endings shall comply with the following:
    - a. The release mechanism shall be located on the pool side of the gate at least three inches from the top of the gate.
    - b. The gate and barrier shall have no opening greater than 0.5 inch within 18 inches of the release mechanism.
  - 4. Aboveground Pools As A Barrier – Where an aboveground pool structure is used as a barrier or the barrier is mounted on the top of the above pool structure, and the means of access is a ladder or steps, then the following requirements must be met.
    - a. The pool must have non-climbable exterior sides which are a minimum height of four feet above grade.
    - b. The ladder or steps shall be capable of being secured, locked or removed to prevent access to the pool.
  - 5. Spas and hot tubs with a securable safety cover shall be exempt from the above fencing and barrier requirements.
  - 6. No building or structure shall be located less than five feet from the water’s edge around the entire perimeter of the pool.

**Table 8-1. Basic Development Standards in Residential Zones**

Zoning	R-1 <sup>1</sup>	R-2		R-3				R-4	AO		
	Single Family	Single Family	Multi-Family Converted	Single Family	Duplex	Town House <sup>2</sup>	Multi – Family <sup>3</sup>	Planned Res. Community	Agri. with Single Family	Agri. and Open Space <sup>4</sup>	
Minimum living space (SF) <sup>5</sup>	1,200	1,200	800 per unit	Same As R-2, except that minimum tract area will be 5 acres	1,000 per unit	1,000 per unit	800 per unit	Residential Standards Same As R-3, See Table 8-2 For Commercial Standards, minimum tract area will be 20 acres	1,200	N/A	
Tract Standards											
Tract Area <sup>6</sup>	5,000 SF	7,500 SF	7,500 SF			8,000 SF	20,000 SF		40,000 SF	20 Acres	N/A
Removed "Maximum					DUs Per				Gross Acre"		
Lot Standards											
Lot Area <sup>7</sup> Per DU <sup>8</sup> (SF <sup>9</sup> )	5,000	7,500	7,500			4,000	2,000		10,000	871,200	N/A
Street Frontage (feet)	30	50	50			30	Interior 20 End 30		125	N/A	N/A
Lot Width at Front Bldg. Line (feet)	50	75	75			40	Interior 20 End 30		100	75	N/A
Setbacks (feet)											
Front Yard	10	25	25			15	15		15	25	N/A
Side Yard											
One <sup>10</sup>	10	10	10			10	10		20	10	N/A
Sum of Both	20	20	20			N/A	N/A		40	20	N/A
Rear Yard	30	30	30			30	30		30	30	N/A
Maximum Building Height											
Stories	2 ½	2 ½	2 ½		2 ½	2 ½	2 ½	2 ½	N/A		
Feet <sup>11</sup>	35	35	35		35	35	35	35	N/A		
Maximum Building Coverage (% of Lot)	60%	50%	50%		50%	55%	50%	5%	N/A		
Minimum Lot Depth	100	100	100		100	100	100	100	N/A		

**Notes:**

1. The R-1 zone is a closed zone. Property may not be rezoned to the R-1 zone.
2. There shall be a maximum of six (6) connected townhouse units in any one group.
3. There shall be a maximum of 12 units per R-3 multi-family building.
4. The AO zone may be applied to any parcel regardless of size, if used for agriculture or open space.
5. Minimum living space refers to the minimum permitted heated living area in a dwelling, excluding garages, storage areas, exterior stairwells and similar features. Minimum living space is a measurement of the actual floor area inside the unit.
6. Tract Area is the minimum acreage or square footage needed to develop land for each dwelling unit type.
7. Lot Area is the minimum lot size for each dwelling unit type.
8. DU means dwelling unit.
9. SF means square feet.
10. There is a required 10' clearance between a new structure and an existing structure on an adjacent lot.
11. See building height note Section 8-2, D.

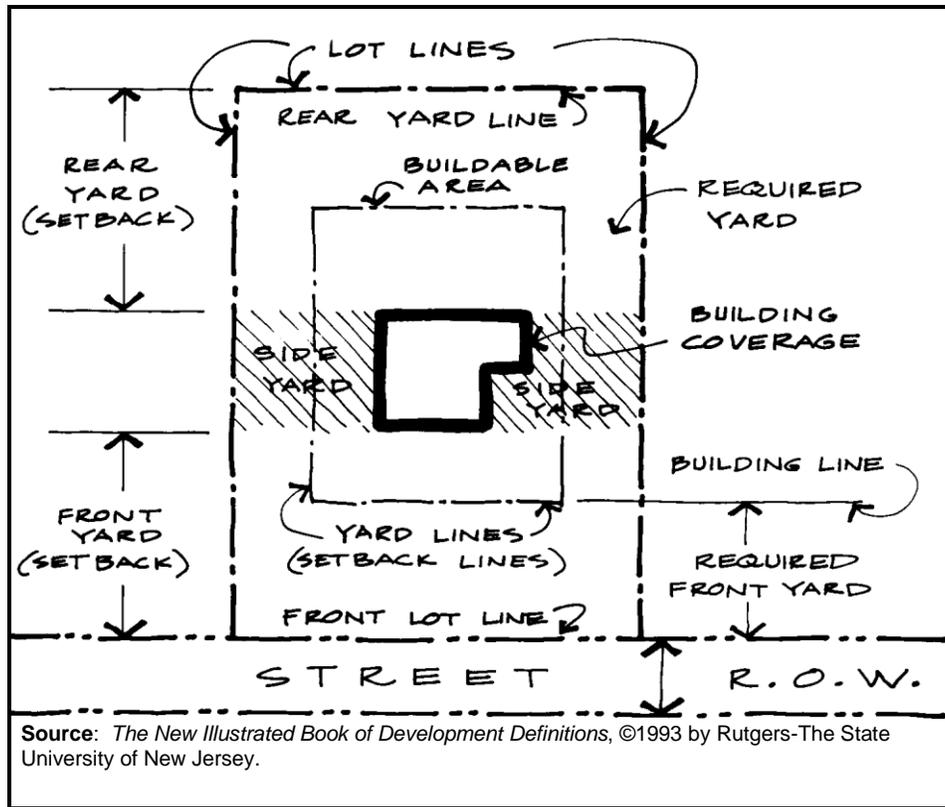


Figure 8-1. Setbacks, Building Coverage, Building Lines

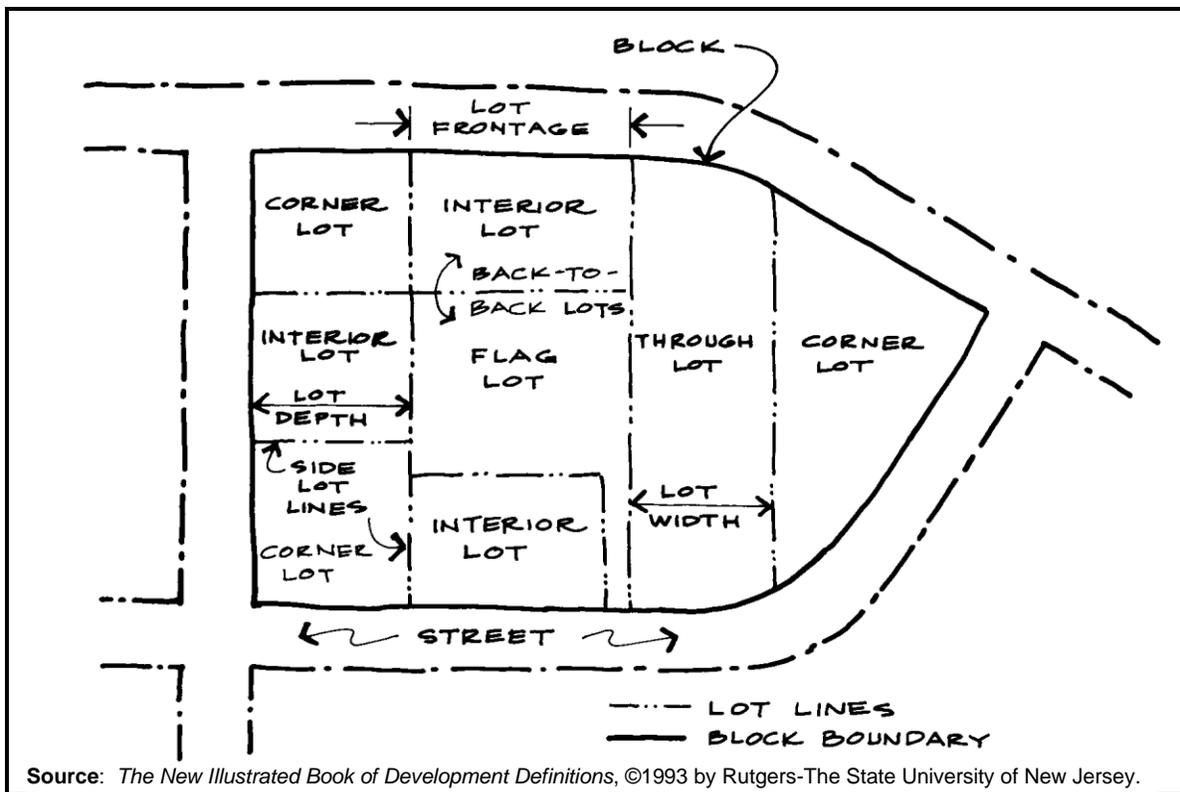


Figure 8-2. Types of Lots

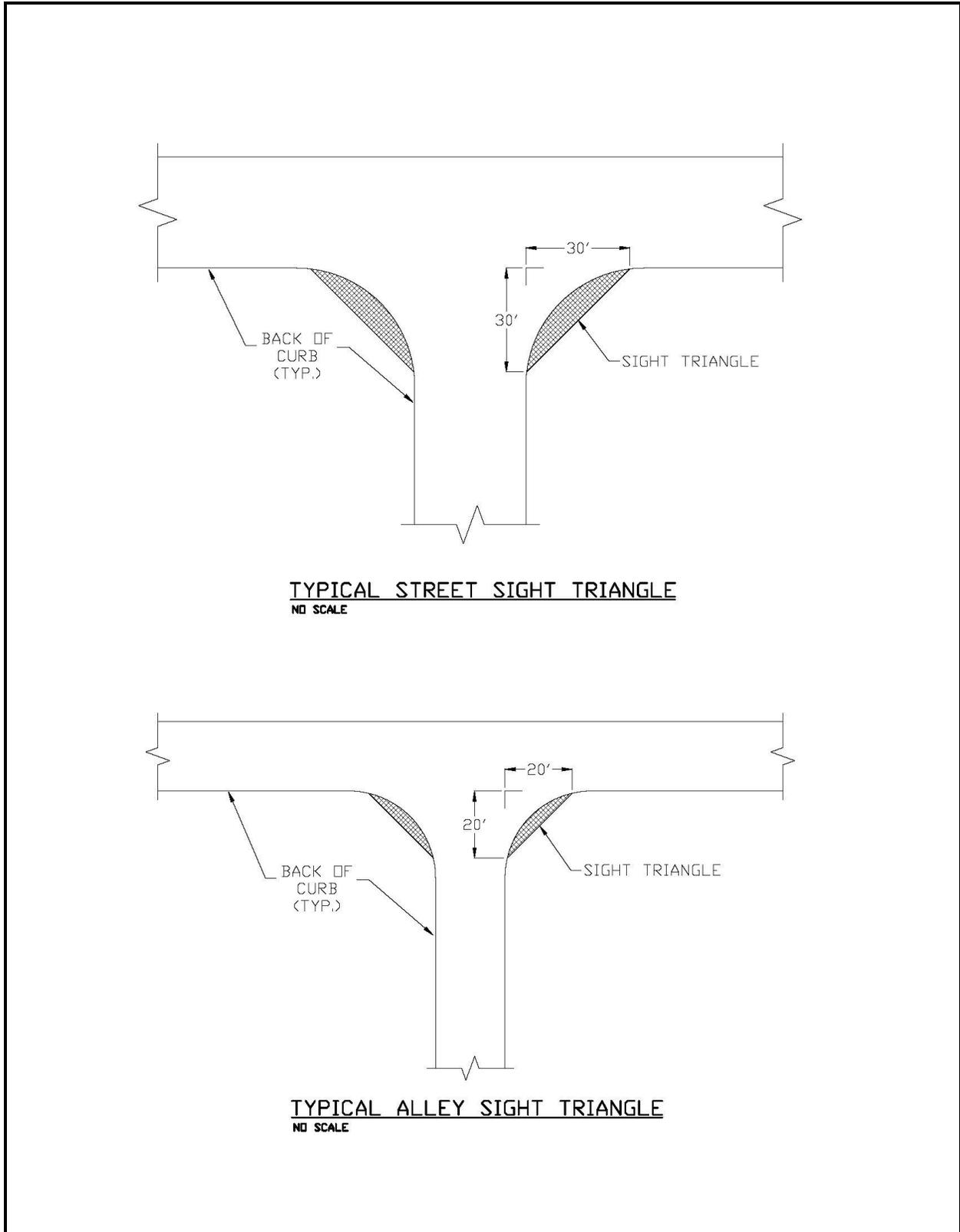


Figure 8-3. Sight Triangles

**Table 8-2. Dimensional & Density Standards in Non-Residential Zones**

Zoning	<b>R-4</b>		<b>C-1</b>		<b>C-2</b>	<b>LI</b>
	<b>Planned Residential Community</b>		<b>Community Commercial</b>		<b>Highway Commercial</b>	<b>Light Industrial</b>
Use	Residential	Commercial	Residential	All Other Uses		
Minimum Lot Area	Same As R-3	7,500	Same as R-1	5,000	10,000	21,780 SF
Street Frontage (feet)		50		40	60	75
Lot Width at Front Building Line (feet)		75		50	75	100
Lot Depth (feet)		100		100	100	150
Setbacks (feet)						
Front		15		15	30	40
Side						
One		20		10	20	20
Sum of Both		40		20	40	40
Rear						
Adjoining Residential Zone		25		25	30	50
Adjoining Non-Residential Zone		20		20	25	30
Maximum Building Height						
Stories		2 ½		2 ½	2 ½	2 ½
Feet		35		35	35	35
Maximum Building Coverage (% of Lot)		50%		50%	50%	50%
Landscape Screen	NA	7' Privacy Fence	Required *	Required*		
Green Area (% of Lot)	15%	15%	15%	15%		

\*Landscape screen or 7 foot high privacy fence required where rear or side lot line adjoin Residential District. Buffer and Landscaping Requirement – once it is established. Once the landscaping/screen fence is established, the property owner shall be responsible for all present and future maintenance. Notwithstanding any other provision of this Article, there shall be a 25-foot buffer from all Residential Districts. The Planning and Zoning Commissioners will determine whether a fence and/or a landscape screen are appropriate for the site.

**Table 8-3. Dimensional & Density Standards for Accessory Buildings and Structures**

Standard	Detached Garage	Other Detached Accessory Buildings
Location	Rear yard <sup>1</sup>	Rear yard <sup>2</sup>
Setbacks		
Side-interior	5 feet	5 feet
Side-corner	Same as principle building	Same as principle building
Rear	5 feet	5 feet
Distance from main building	10 feet	10 feet
Distance from dwelling on adjacent Residential Lot	20 feet	20 feet
Maximum Height	20 feet	20 feet
Maximum Lot Coverage	Must be included in calculation of coverage for principal building	Must be included in calculation of coverage for principal building

1. Detached garages not located completely behind main building must remain within side setback required from main building.
2. Detached accessory structures other than garages must be located completely behind main building.

**Table 8-4. Permitted Projections<sup>1</sup> into Required Yards**

Type of Projection	Front Yard	Interior Side Yard	Corner Side Yard	Rear Yard
Balconies, bay windows, entrances, oriels, and vestibules less than 10 feet wide	3 feet	3 feet	3 feet	3 feet
Chimneys	2 feet	2 feet	2 feet	2 feet
Cornices and eaves	2 feet	2 feet	2 feet	2 feet
Decks <sup>2</sup> , platforms, or similar raised structures	Not permitted	Not permitted	Not permitted	6 feet
Outside stairways	Not permitted	Not permitted	Not permitted	6 feet
Porches, steps, stoops, terraces, and similar features				
Open	9 feet	3 feet	3 feet	9 feet
Roof covering porches, steps, stoops, terraces	Not permitted	Not permitted	Not permitted	Not permitted
Enclosed, including screened-in porches	Not permitted	Not permitted	Not permitted	Not permitted

1. Projections into required yards refers to structural features and elements that are permitted, without a variance, to extend into the setbacks otherwise specified by this Ordinance. These structural features and elements may be constructed *within* the required setbacks as otherwise permitted. This table provides some latitude for additional projections.
2. Covered and/or screened decks shall only be permitted in the required setback.

## Article 9. Subdivision & Land Development

### Section 9.1- Applicability

The provisions of this Article govern the preparation of all development plans regardless of whether they result in the subdivision of land.

### Section 9-2. General Requirements

#### A. Conformance to Applicable Rules and Regulations

In addition to the requirements established in this Ordinance, all subdivisions shall comply with the following laws, rules, and regulations. If a subdivision plan does not comply with these laws, rules, and regulations, it will be disapproved and Compliance Letters will be withheld.

1. The provisions of this Ordinance and all other applicable laws, regulations and standards of the County, State and their respective agencies.
2. The Town of Felton Comprehensive Plan.
3. The Town of Felton Site Construction Standards and Specifications.

#### B. Subdivision Name

Kent County 911 Addressing shall approve the proposed name of the subdivision.

#### C. Reference Monuments

1. Permanent reference markers shall be composed and set as per current Kent County requirements.

#### D. Character of Land

Land which the Town of Felton finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features, which will be harmful to the safety, health, and general welfare of the current or future inhabitants of and/or its surrounding areas, shall not be subdivided or developed unless acceptable methods are determined by the developer and approved by the Town of Felton upon recommendation of the Administrator, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses that mitigate the characteristics that make the land unsuitable for development.

### Section 9-3. Lot & Block Design

#### A. Block Design

1. Spacing. Streets shall be spaced so that blocks meet the dimensional requirements of this Ordinance.
2. Shape. The lengths, widths, and shapes of blocks shall be appropriate for the character of the Town of Felton, the surrounding neighborhood, and the proposed development.
3. Easements. The subdivision plan shall provide for the reservation of easements through a block to accommodate utilities, drainage facilities, or pedestrian traffic.

#### B. Lot Design

1. General Requirement. Lots shall be arranged so that there will be no foreseeable difficulties, because of topography or other conditions, in securing building permits.
2. No lot lines of a lot intended for sale and private ownership shall be platted in any floodplain, wetland, riparian buffer, or designated open space.
3. Lot Access. Every lot shall abut and have access to a public street. No residential lot shall have access to more than one public street and no more than one access.
4. Lot Dimensions
  - a. General. Lot dimensions shall comply with the minimum size, width, depth, and other applicable dimensional and density standards of the zone in which they are located.
  - b. Side Lot Lines. In general, side lot lines shall be at right angles to street lines or radial to curving street lines unless a deviation from this rule will produce a better

- street or lot plan in the opinion of the Town.
- c. Corner Lots. Corner lots shall have sufficient extra width to permit the building setback from both streets required in this Ordinance.
  - d. Depth and Width. Excessive lot depth in relation to lot width shall be avoided. Flag shaped lots with narrow entrances shall not be permitted.
  - e. Lot Area. The area of all lots shall be equal to or greater than the minimum required for the zone in which the subdivision is located.
  - f. Lots Used for Single-Family Homes. The size and shape of lots intended for single-family use shall be sufficient to permit the construction of a garage for a single automobile, at a minimum.
  - g. Non-Residential. The depth and width of properties proposed for non-residential uses shall be sufficient to provide parking, loading, landscaping, and other facilities specified in this Ordinance, and other applicable requirements.
  - h. Double the Minimum Area. Where lots are more than double the required minimum area, the Town of Felton may require that these lots be arranged to permit further subdivision and the opening of future streets.
  - i. Drainage
    - i. Lots shall be laid out and graded so as to provide positive drainage away from all buildings. The flow of runoff in all existing and/or proposed swales shall be positive and no ponding of runoff in any areas not designated as storm water management ponds shall be permitted.
    - ii. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area in which the subdivision is located.
    - iii. Drainage systems shall be designed to avoid the conveyance of storm water runoff from adjacent lots on to or through any single lot.
    - iv. Drainage plans must be approved and constructed according to the requirements of the Kent Conservation District and Delaware storm water regulations.
5. Lot Orientation
- a. The lot line common to the street right-of-way shall be the front lot line. Lots which front the right-of-way of two streets shall have one of the two frontages designated as the front lot line. The building shall face this line.
  - b. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line on an adjacent lot.
6. Lot Frontage
- a. Street frontage of any lot shall be as specified in the Dimensional and Density Standards of this Ordinance measured along the front set back line. Where the minimum street frontage is not specified in the Dimensional and Density Standards, it shall be 30 feet.
  - b. Double Frontage and Reversed Frontage Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation, as determined by the Town

#### **Section 9-4. Easements**

##### **A. Applicability**

The requirements of this section shall only be construed to apply to the subdivision of land occurring after the adoption of this Ordinance.

##### **B. Required to Accommodate Public Utilities**

- 1. General Requirement. Easements shall be provided where necessary to meet public utility, storm water management, and drainage requirements.

2. Along Lot Lines. All subdivision lots shall have five-foot-wide easements along all lot lines for a total easement width of at least 10 feet along a lot line common to two lots. Easements of greater width may be required along lot lines or across lots, where necessary.
  3. Along Subdivision Boundaries. Easements shall be required along the perimeter boundary of the subdivision. The easements shall be no less than 10 feet in width on the interior side of the boundary.
- C. Required to Accommodate Waterways and Drainage Ways  
Where a proposed subdivision is traversed by any stream, waterway or drainage way, the sub divider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such waterways and drainage ways.
- D. Permanent Obstructions Prohibited  
No building, structure or other permanent obstruction shall be placed within any easement unless it is for the purpose of aiding in the designated function of the easement.

### **Section 9-5. Plans & Profiles**

- A. Approval Required Prior to Start of Construction  
Plans, profiles and specifications for the required improvements shall be prepared by the sub divider and submitted for approval by the Town and by the appropriate public authorities prior to construction. All plans shall be signed and stamped by an engineer registered in the State of Delaware prior to submission.
- B. Required Information  
The plans and profiles to be submitted for all new construction shall include the following:
1. Plans and profiles of each street showing existing and proposed grades, street intersection elevations, pipe crossings, and spot elevations.
  2. A typical cross section of proposed streets showing the width of roadways such cross sections shall extend laterally to the point where the proposed grade intersects the existing grade, except that in no case shall less than the full width of the street right-of-way be shown;
  3. Construction and specification plans of proposed sanitary sewers and storm drains shall be approved by Kent County, the Kent Conservation District, or the Delaware Department of Transportation where each has jurisdiction. Plans of proposed storm drains within the subdivision and outside the Delaware Department of Transportation right-of-way shall be reviewed and approved by the Town
  4. Construction and specification plans of the proposed water distribution system, showing pipe sizes and the locations of all valves and fire hydrants, shall be in accordance with the standards of the relevant state agencies, the State Fire Marshal and the Town;
  5. Plans and specifications for any forested buffer strips, if required.
  6. See Table 4-1 for additional requirements.
  7. The applicant/developer is responsible for familiarizing him/herself with the Town of Felton Site Construction Standards and Specifications. Plan submission checklists are available from the Town and must be submitted with plan submission.

### **Section 9-6. Inspections & Fees**

See the General Conditions of the Site Construction Standards and Specifications for information regarding inspections, inspection fees, and record (“As-Built”) drawings.

**Section 9-7. Bonds & Guaranties**

See the General Conditions of the Site Construction Standards and Specifications for information regarding Performance Bonding, partial and final acceptance, guarantee period, and maintenance bonding.

## **Article 10. Streets, Sidewalks, Curbs & Gutters**

### **Section 10-1. Roads & Streets**

- A. General Requirements
1. Private Streets. Private streets are prohibited.
  2. Service from Public Streets. Every subdivision shall be served by, and each property shall have direct access to, a dedicated public street. Primary access to all properties shall be provided by a public street within a right-of-way with a minimum width of 50 feet. Alleys shall function to provide secondary access. Alleys shall be located in a public right-of-way with a minimum width of 20 feet and shall be maintained by the Town.
  3. Street Names
    - a. All new streets shall be named.
    - b. Street names shall be selected so as not to duplicate or closely resemble existing names within the Town of Felton, the same hundred, or postal district and shall be approved by Kent County 911 Addressing.
    - c. The continuation of any street shall have the same name.
    - d. The developer shall be responsible for the placement of all new street name signs.
  4. Grading and Improvement Plan. Streets shall be graded and improved in conformance with the construction standards of the Delaware Department of Transportation. Street cross sections shall be as shown in the details of the Town Site Construction Standards and Specifications. The Town shall review design specifications prior to the final plat and construction drawing approval.
  5. Classification. Each street shall be classified as either a State-maintained road or a Town maintained street. See the General Conditions of the Town's Site Construction Standards and Specifications regarding responsibility for streets, bonding, acceptance by the Town, and the deeding of right-of-way to the Town.
  6. Access to State-Maintained Roads. Where a subdivision borders on, or contains an existing or proposed State-maintained road, the State shall determine how access shall be provided from the subdivision to the State-maintained road.
- B. Design Standards
1. Generally. Streets shall be laid out to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees.
  2. Access streets, intended primarily for access to individual properties, shall be arranged to discourage their use by through traffic whenever possible from motorists not living within the development.
  3. Streets shall be classified as minor, minor collector, and major collector as defined in the Town's Site Construction Standards and Specifications, Section 6. Horizontal and vertical street geometry and paving component thickness design shall be as per the most current version of the Town's Site Construction Standards and Specifications and the State of Delaware Division of Highway Rules and Regulations for Subdivision Streets.
  4. Streets within a development shall interconnect with adjoining development, and with existing streets. Cul-de-sacs are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Maximum cul-de-sac street length shall be as per Delaware State Fire Prevention Regulations.
  5. Fire department access and fire lane layout shall be provided in accordance with the Delaware State Fire Prevention Regulations.

6. Collector Streets
  - a. Collector streets shall be laid out to continue existing, planned, or platted streets on adjacent tracts unless the Town of Felton determines:
    - i. That topography or other physical condition prevents continuation;
    - ii. That coordination between the two subdivisions is unnecessary; or
    - iii. That access between the two adjacent subdivisions should be restricted.
  - b. Access to Undeveloped Adjacent Tracts. Collector streets shall be extended to the boundary lines of adjacent subdivisions. Temporary turnarounds shall be provided within the subdivision at the ends of the collector streets via temporary easements or other means approved by the Commission.
- C. Construction Standards
  1. Streets shall be constructed in accordance with current Delaware Department of Transportation Standards.
- D. General Standards for Rear Access
  1. Rear access is a desirable feature which has many benefits related to community design, off-street parking, emergency service and utility access, and convenience to the homeowners. Rear access shall be required by the Town, in association with all townhouse developments which contain four (4) or more units attached in a row.
  2. Paved walkways are permitted in residential developments when proposed as part of a comprehensive pedestrian and bikeway plan for the community or where they can be shown to benefit property owner's access to the rear of their properties.
  3. Parking shall be prohibited within the right-of-way of any alley. All parking must be located on individual lots on parking pads, in driveways, or in garages. It shall be permissible and encouraged to access parking pads, driveways, and garages from alleys where they are provided.
- E. Design Standards for Rear Access
  1. An alley designed for vehicular use shall have a paved surface with a minimum width of 16 feet. The turning radii shall be designed to allow for the safe passage of passenger vehicles, service vehicles such as trash trucks, and emergency vehicles such as fire trucks.
  2. Alleys shall be located in a right-of-way, to be dedicated to the Town, at least 20 feet in width. The paved walkways must be within common open space that is transferred to the homeowners or condominium association, which will be responsible for maintenance.
  3. Walkways and pathways intended to provide access to the rear yards of townhouse style dwellings that are not served by an alley shall be a minimum of 6 feet in width and paved with a hard surface such as concrete, asphalt or a similar approved surface.
  4. All walkways and pathways shall be considered common open space, and transferred to the homeowners or condominium association for maintenance. Deed restrictions shall be enacted to ensure that no fences, sheds, or other obstructions are placed in the walkway easements.
  5. Any fence installed in the rear yard of a residential unit with rear access shall have a gate allowing access to the alley or rear access walkway or pathway.

### **Section 10-2. Sidewalks**

- A. Requirement

Sidewalks are required in all subdivisions on both sides of the street. Sidewalks shall be installed within the right-of-way.
- B. Design

Sidewalks shall be 5' wide and separated from the curb by a 2 foot wide grass strip. Any proposed plantings within the landscape strip must be approved by the Town. The Town may

alter this configuration if necessary if it is demonstrated that topographic conditions make this standard unworkable but in no case shall a sidewalk width be less than five feet.

C. Construction Standards

Sidewalks shall be constructed according to applicable Delaware Department of Transportation standards.

**Section 10-3. Emergency Access**

A. General

1. New developments shall be designed to provide emergency access to the units in accordance with Delaware State Fire Prevention Regulations.
2. Parking in new developments shall be designed in accordance with Article 14 and in a manner which will minimize the chance that parked vehicles will block rear access points, cul-de-sacs or other approved turn around areas.

B. Emergency Access Required

1. Alleys as defined in this article are required to be installed to provide rear access to any townhouse unit in which more than four (4) units in row are attached.
2. All fences installed in the rear yards of townhouses shall be a maximum of 6-1/2 feet high, and shall be provided with a self-latching gate to allow access to the rear of the structure.

**Section 10-4. Curbs & Gutters**

A. Requirement

Unless otherwise approved by the Town, all curbing within residential subdivisions shall be integral P.C.C. curb and gutter, type 2, as described in the current Delaware Department of Transportation Standards.

B. Design

Unless otherwise specified by the Town, all curbing shall be constructed in accordance with the Delaware Department of Transportation's Standard Construction Details.

**Article 11. Utilities**

**Section 11-1. General Requirements**

- A. General
  - 1. All developments shall be designed to the maximum extent possible to consolidate and coordinate utility placement and access for trash collection and other services.
  - 2. The purpose of this section is to enable utilities and services to be provided in an efficient manner which is also aesthetically pleasing.
  - 3. The developer(s) shall be financially responsible for the extension of any water main(s), or any other existing water system improvements which may be necessary so that the Town is able to serve water to their development(s).
- B. Connections Required
  - 1. All practical provision shall be made for each lot and principal use in the Town of Felton to be connected to those utility services available in the Town of Felton at the time of development or subdivision.
  - 2. Developers/property owners shall provide required utilities at their expense and dedicate them to the Town, County, or other entity as applicable.
- C. Location
  - 1. Connections. The developer/property owner shall install underground service connections to the street property line of each platted lot at his/her expense, unless another location is approved by the Town or County.
- D. Easements
  - 1. Easements shall be provided for public and private utilities not located within dedicated public right-of-way.
  - 2. Easements shall be at least 10 feet wide.
  - 3. The property owner or developer and the applicable utility companies shall coordinate the establishment of utility easements established on adjoining properties.

**Section 11-2. Public Utilities**

- A. Requirements
  - 1. In new dwelling units constructed with alley access, public utility equipment (such as gas meters, electric meters, telephone boxes etc.) is encouraged to be installed in the rear of the units.
  - 2. In new dwelling units without rear access, public utility equipment located on the front of units shall be screened from public view by landscaping, fencing, or some other method, if and to the extent permitted by the respective utility provider.
  - 3. Attached and multi-family dwelling units under common ownership or condominium ownership are required to consolidate public utility equipment in a centralized location on the structure, if permitted by the utility provider. This equipment shall be screened from public view by landscaping, fencing, or some other method if permissible.

**Section 11-3. Water Facilities**

- A. Requirements

All dwellings and principal uses within the Town shall be required to be served by the Town's central water system.
- B. Design and Construction Standards

All water infrastructure within the Town shall be designed and constructed in accordance with the Town's Site Construction Standards and Specifications.

**Section 11-4. Wastewater Facilities**

- A. All dwellings and principal uses within the Town shall be required to be served by the County's central sewer system.
- B. Design and Construction Standards
  - 1. Subdivisions connected to a sanitary sewer collection and transmission system shall be designed and constructed in accordance with the requirements of the County.

**Section 11-5. Lighting**

- A. Requirement

Any lighting shall be directed towards the ground of the property it is intended to illuminate and shall not shine avoidable amounts of light on adjacent properties or create conditions of glare for adjacent properties.
- B. Streets and Alleys

Developers/sub dividers shall provide street and alley lights along all proposed streets and alleys.

**Section 11-6. Trash Collection**

- A. Requirements
  - 1. Individual trash receptacles may not be stored outside in the front of attached or multi-family dwelling units. It is acceptable to store trash receptacles inside of garages.
  - 2. If alleys are provided, trash collection from the rear of the units is encouraged.

**Section 11-7. Secondary Utilities**

- A. General Requirement

Provision shall be made for each lot and principal use in the Town of Felton to be connected to electric, and telephone utilities at a minimum, and cable television, provided it is available. Other utilities such as gas shall be permitted to serve subdivisions if and when they are available. Sewer and water location shall take precedence over all other utilities. No secondary utility design shall be permitted until the sewer and water designs have been completed and approved.
- B. Electric and Telecommunications
  - 1. Electrical and telephone wires and cables, both main and service lines, shall be placed underground in accord with the rules and specifications of the Public Service Commission laws on utility service in developments and any applicable ordinances of the County.
  - 2. All main underground cables that are within the right-of-way of a street shall be located as specified by the Town of Felton or the Delaware Department of Transportation, where they have jurisdiction. Underground electric and telephone lines may be located in front yards, provided they are installed within easements. Where alleys are used, the utilities should, if possible, be located in the alleys.
- C. Gas or Other Underground Utilities

Gas or other underground utilities not installed within the public right-of-way shall be installed within dedicated utility easements.

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**Article 12. Environmental Protection Standards****Section 12-1. Water Resource Protection Areas****A. Wellhead Protection Areas**

Definition. Wellhead water resource protection areas are surface and subsurface areas surrounding public water supply wells or well fields where the quantity or quality of groundwater moving toward such wells or well fields may be adversely affected by land use activity. Such activity may result in a reduction of recharge or may lead to introduction of contaminants to groundwater used for public supply ("wellhead").

**B. Regulations Governing Development**

Areas within 100 feet of the well shall be one hundred (100) percent open space. Any well in existence prior to the adoption of this Ordinance may be replaced or modified, and the replacement or modified well(s) are exempt from the conditions of this Ordinance.

1. The natural runoff flowing into wellhead areas shall be allowed and all new storm water run-off shall be diverted around the wellhead protection areas whenever possible.
2. The storm water system's discharge to wellhead WRPA's shall be by sheet flow through grassland or discharge from a storm water management facility having a wetland or aquatic bench. Storm water runoff from all parking areas shall be directed to a storm water management facility before it is discharged into a wellhead WRPA.
3. Within the wellhead area, impervious surfaces shall be limited to the buildings and access associated with the well and distribution and treatment facilities and their maintenance.
4. Underground storage tanks containing petroleum or any hazardous substances listed in 40 CFR 116 in an aggregate quantity equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in a designated wellhead area.
5. Hazardous waste storage, treatment and disposal facilities, and sanitary, and industrial facilities as defined in *Delaware Regulations Governing Hazardous Waste* shall not be permitted in wellhead areas.
6. Where possible, groundwater recharge shall be encouraged within the wellhead protection areas by replacing turf grass with low-maintenance cool or warm season grasses, shrubs and/or trees.

**C. Excellent Recharge Areas**

Definition. A recharge area is a water resource protection area designated as having the best potential for groundwater recharge. Excellent recharge areas shall be as delineated on the current maps available from the Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Water Resources, Source Water Protection Program. If an excellent recharge area exists within a proposed development site, the boundaries of the area (or areas) shall be delineated on the plan(s).

**D. Regulations Governing Development**

1. There are no requirements contained in this section prohibiting development provided the impervious cover of that portion of the parcel within the excellent recharge area is 35 percent or less.
2. Impervious cover of that portion of the parcel within the excellent recharge area of greater than 35 percent is allowed provided that the applicant demonstrates through an environmental report prepared by a registered professional geologist or a registered professional engineer familiar with the hydro geologic characteristics of Kent County and the Town of Felton, using climatic water budget, that post-development recharge quantity will meet or exceed the pre-development (existing) recharge quantity.

3. For all new construction all structures except for residential dwellings shall be required to discharge roof drains into underground recharge systems or permeable surfaces that allow the discharges to infiltrate into the ground.
4. Impervious development existing within the excellent recharge area(s) prior to the adoption of this Ordinance shall not be permitted to increase the impervious cover by greater than 150 square feet, unless they are able to satisfy all the conditions of this section.
5. Discharge from roof drains, containment areas or impoundments that have run-off from an area that may contain contaminants from mechanical systems shall be segregated and treated prior to discharge.
6. Above and underground storage tanks containing petroleum products or any hazardous substances listed in 40 CFR 116 in an aggregate equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in an excellent recharge area unless such facilities meet the above ground and underground storage tank regulations of DNREC and the State of Delaware.
7. Hazardous waste storage, treatment and disposal facilities, and sanitary, and industrial facilities as defined in *Delaware Regulations Governing Hazardous Waste* shall not be permitted in excellent recharge areas.

### **Section 12-2. Drainage**

- A. Natural Drainage System Utilized to Maximum Extent Feasible
  1. To the extent practicable, all development shall conform to the natural contours of the land. Natural and pre existing man-made drainage ways shall remain undisturbed.
  2. To the extent practicable, lot boundaries shall be made to coincide with the natural and pre existing man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.
- B. Proper Drainage Required
  1. All developments, lots, and properties shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the site.
  2. Surface water may not be channeled or directed into a sanitary sewer.
  3. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

### **Section 12-3. Permanent Storm Water Management**

- A. Requirement

Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development.

  1. No development or property may be constructed or maintained in a way that such development or property unreasonably hampers the natural flow of water from higher adjacent properties across the development or property thereby unreasonably causing substantial damage to the higher adjacent property.
  2. No development or property may be constructed or maintained so that surface waters from such development or property are unreasonably collected and channeled onto lower adjacent properties at such locations and at such volumes as to cause substantial damage to the lower properties.
  3. All storm water management systems shall be approved by the Kent Conservation District and constructed in accordance with current State of Delaware Natural Resources and Environmental Control (DNREC) regulations.
- B. Design and Construction
  1. Storm water drainage systems shall be separate from and independent of sanitary sewage systems.

2. Storm water drainage systems shall be designed and constructed in accordance with current DNREC regulations.
3. Off-Site Runoff
  - a. Where a subdivision and/or development results in increased quantities of storm water runoff leaving the area to be developed, the sub divider shall demonstrate that off-site drainage improvements are adequate to handle the additional water and that all new or expanded swales, pipes or other off-site improvements are located in dedicated easements which permit efficient access for maintenance purposes.
  - b. Standards for assessing the adequacy of off-site drainage systems shall be those established by DNREC, the Kent Conservation District or by the State Department of Transportation where it has jurisdiction.

#### **Section 12-4. Erosion & Sediment Control**

- A. Requirement  
Development plans shall include adequate provision for controlling temporary flooding, soil erosion, and sediment during construction and after construction is completed.
- B. Design and Construction
  1. All development or land disturbing activity is subject to the requirements of the Delaware Erosion and Sediment Control Handbook.
  2. Top Soil. No top soil shall be removed from a site or used as spoil without first having received permission to do so from the Town and Kent Conservation District. Top soil moved during the course of construction shall be stockpiled, stabilized, redistributed and seeded in compliance with DNREC and Kent Conservation District regulations.

#### **Section 12-5. Screening**

The Town of Felton may, through the development review process, require the reasonable provision of screening in order to shield neighboring properties from the adverse effects of a development.

#### **Section 12-6. Landscaping & Tree Preservation**

- A. Protection & Retention of Large Trees
  1. All properties in the Town of Felton shall retain all existing trees 10 inches in diameter or more unless the retention of such trees would, according to the Town's determination, unreasonably burden the property owner.
  2. No excavation or subsurface disturbance may be undertaken within the drip line of any tree 10 inches in diameter or more, and no impervious surface may be located within 12.5 feet, measured from the center of the trunk, of any tree 18 inches in diameter or more unless compliance with this subsection would, according to the Town's determination, unreasonably burden the property owner. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
- B. Tree Planting on Lots
  1. The developer shall plant at least two trees on each new lot, unless approved otherwise by the Town.
  2. These trees shall be in place before the time that a certificate of occupancy is issued for the principal structure on that lot.
  3. The trees shall be selected from the list found in Appendix 1, and shall not be invasive or nuisance species.
- C. Tree Planting in Open Space
  1. The developer shall plant at least one tree per 3,000 square feet of land area in all active

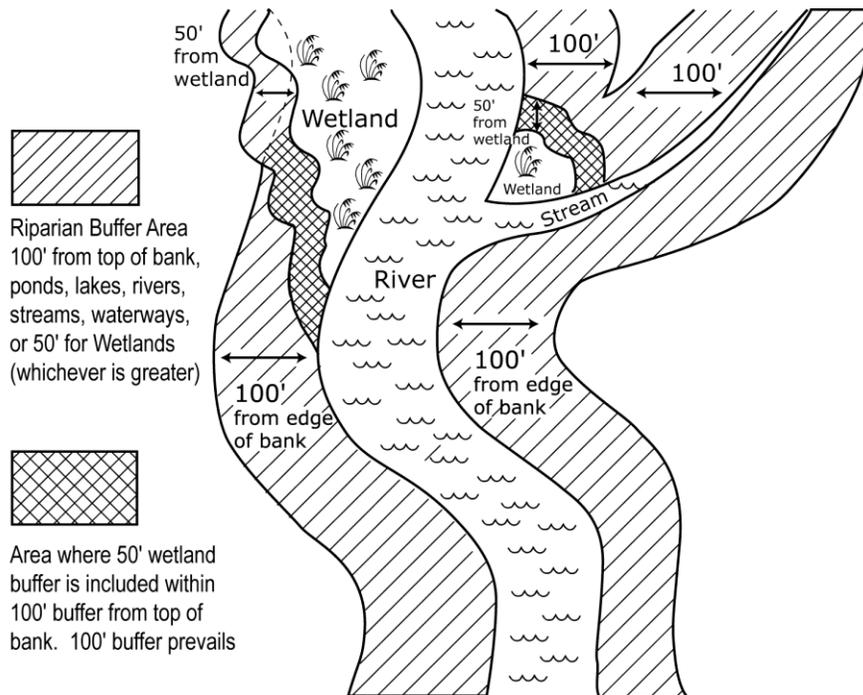
- open space areas.
- 2. These trees shall be in place before the time that the Town accepts the public improvements (streets and utility infrastructure) for dedication.
- 3. The trees shall be selected from the list found in Appendix 1, and shall not be invasive or nuisance species.
- 4. Tree planting and reforestation is encouraged in passive open space areas.

**Section 12-7. Riparian Buffer Areas (RBA)**

- A. Minimum Riparian Buffer Area Requirement
  - 1. RBAs are to be established and as required by this section permanently protected within all new development via dedication to the town, deed restriction or conservation easement.
  - 2. The RBA shall extend a minimum of 100 feet past each top of bank of a lake, river, stream or waterway and/or 50 feet beyond any wetland, whichever is greater. Note that there is also a 30 foot building setback from any floodplain as required in Section 12-8 below.
  - 3. The RBA shall contain no lot lines, structures or infrastructure such as storm water maintenance ponds. However, as appropriate, the riparian buffer may contain walking trails, if approved by the Town.
  - 4. The riparian buffer, and other associated open space, shall be demarked with permanent markers to ensure against encroachment.
  - 5. The Town is authorized to consider and approve adjustments to these minimum standards and dimensions for properties designated C-1 (Community Commercial) in the Comprehensive Plan. In order to grant these adjustments the Planning Commission must determine that they will result in superior urban design or waterfront redevelopment.
  - 6. The Planning Commission is authorized to consider and approve minor adjustments to these minimum standards and dimensions to accommodate for necessary road crossings, topography, existing structures and similar conditions on a parcel. Such adjustments shall not impact more than 10% of the riparian buffer area required under the minimum standards in this Ordinance. All necessary agency permitting must be in place prior to any disturbance within wetland area(s).
- B. Establishment and Maintenance
  - 1. Where native vegetation is not present, the RBA must be reforested with native species according to Table 12-1.
  - 2. No vegetation shall be removed from the RBA, except for removal of invasive and exotic species and hazardous trees.
  - 3. A transition zone, consisting of scrub/shrub vegetation or low maintenance warm or cool season grass is encouraged between forested RBA and lot lines.
  - 4. A maintenance plan for the RBA shall be established prior to approval of the subdivision by the Town, and a responsible party shall be designated to implement the plan.

**Table 12-1. RBA Reforestation Requirements per Acre**

No. of Plants	Types of Plants
1	4" caliper canopy
4	3" caliper canopy
10	1-1/2" caliper canopy
6	1-1/2" caliper under story trees
50	6" whip canopy
30	Bare root or 1 gallon pots

**Figure 12-1. Diagram, Riparian Buffer Area**

## Section 12-8 Open Space and Recreation

### A. General

1. It is important to provide opportunities for active recreation in all communities, but particularly in Town where individual units may not have very large yards.
2. Attractive, age appropriate active recreation facilities can and do improve the quality of life and property values.

### B. Active Open Space Requirements

1. In new residential developments in the R-2, R-3, and R-4 zones, active open space shall be provided at a minimum rate of 10% of total lot area.

### C. Open Space Standards

1. In new residential developments in the R-2, R-3, and R-4 zones active open space shall be designed to be centrally located and accessible to all residents in a community. Total open space shall be greater than or equal to 25% of the gross site area.
2. Active open space may be in the form of one large area, or numerous smaller areas interspersed throughout the community.
3. The Planning Commission may require improvements (example: playground equipment) in the active open space areas which are appropriate to the intended future residents of the community.
4. Active open space should be integrated with passive open space and natural areas whenever it is practical to do so.
5. Active open space areas shall be connected to residences and to one another by sidewalks, walking trails, and/or any pathway or walkway system designed into the community.
6. Recreational walking trails may count towards to active open space requirement at the discretion of the Town.

D. Passive Open Space Requirements

1. All lands in any new development project in any zone that are constrained by site limitations, environmental features, or buffers as regulated by other parts of this Ordinance shall be set aside as passive open space. Passive open space areas may either be left in their natural states, or enhanced using appropriate and environmentally sustainable planting, reforestation, or stabilization methods.
2. Passive Open Space shall contain the following lands in new development projects:
  - a. Riparian buffer areas;
  - b. Floodplains;
  - c. Wetlands;
  - d. Forested areas (outside lot lines);
  - e. Storm Water Management Areas.
3. Passive Open Space may also contain the following:
  - a. Identified areas of cultural resources;
  - b. Significant or important view sheds or aesthetic features.
4. Passive Open Space shall be permanently protected through deed restrictions or conservation easements.
5. Passive Open Space shall be demarked with permanent markers to ensure against encroachment. Signs shall be placed at 150 foot intervals along the boundary lines. Signs shall say “DEDICATED OPEN SPACE AREA – MACHINERY, DUMPING OR STORAGE OF ANY MATERIAL IS PROHIBITED – VIOLATORS ARE SUBJECT TO FINES AS IMPOSED BY THE TOWN OF FELTON”.
6. No structures, lot lines, or infrastructure shall be permitted within passive open space, with the exception of walking trails or storm water management structures.
7. No building may be constructed within 50 feet of any floodplain.

**Article 13. Signs****Section 13-1. Applicability and Purposes**

- A. Applicability  
These sign regulations apply within every existing and future zoning district in the Town of Felton. A sign may be erected, placed, established, painted, created, or maintained in the Town of Felton only in conformance with this Ordinance.
- B. Purposes
  1. To encourage the effective use of signs as a means of communication in the Town of Felton.
  2. To avoid visual clutter and competition among sign displays in their demand for public attention.
  3. To promote the safety and convenience of pedestrians and motorists.
  4. To minimize the adverse effects of signs on nearby public and private property.

**Section 13-2. General**

- A. Sign Area Measurement  
The sign area is the entire portion of the sign that can be enclosed within a single, continuous rectangle, ellipse, polygon or circle. The area includes the extreme limits of the letters, figures, designs, and illumination, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the structure which supports it, or structure against which it is placed.
- B. Placement
  1. Setbacks. Setbacks are measured from the portion of the sign, or its structure, nearest to the property line.
  2. Height. Height is measured from the portion of the sign, or its structure, which is vertically the farthest from the ground.
- C. Requirements. Refer to Table 13-1.
- D. Color
  1. Interference with Traffic Safety. A sign must not use color combinations that may be confused with a traffic sign or signal.
- E. Illumination
  1. Prevention of Glare
    - a. Definition. Glare is a direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.
    - b. Prevention Requirement. Any illuminated sign must be illuminated using an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line.
  2. Interference with Traffic Safety. A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.
  3. Flashing. A sign must not contain or be illuminated by flashing, revolving, or intermittent lights, or lights that change intensity.
  4. Near a Residence. Any sign on a lot or parcel within 150 feet of a residential use must be illuminated only between the hours of 8:00am to 7:00pm, excluding R-1.
- F. Structural Limitations
  1. Interference with Traffic Safety. A sign must not be shaped like a traffic sign or traffic signal, or use wording similar to traffic signals, or interfere with traffic safety.
  2. Shaped Like Humans or Animals. A sign must not be shaped to resemble any human or animal form, but must conform to a geometric shape.
  3. Wind Activated. A sign must not be set in motion by wind.
  4. Moving Parts. A sign must not have moving parts.

**Section 13-3. Permanent Signs**

- A. Definitions
1. Free Standing Sign. A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Free standing signs may be mounted directly to a base made of masonry or other materials.
  2. Permanent Sign. A permanent sign is a sign constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.
  3. Wall Sign. Any sign which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

**Section 13-4. Real Estate, Development & Construction Signs**

- A. Definition
- Real estate, development and construction signs are signs displayed on private property while such property is offered for sale, rental, or lease; or is being developed; or while an individual or company is engaged in construction.
- B. General Requirements
1. Where Allowed. Real estate, development and construction signs may be erected in any zone.
  2. Display Period. Real estate, development and construction signs may be displayed while a property is being offered for sale, while land is being developed, and while construction is taking place.
  3. Removal. Real estate, development and construction signs must be removed within 30 days of the sale of a property, the completion of a land development project, or the termination of an individual's construction activity.
  4. Materials. Real estate, development and construction signs must be made of materials sufficiently durable for the time that they are displayed.

**Section 13-5. Temporary Signs**

- A. Definition
- A temporary sign is a sign displayed on private property for less than 30 days and shall be made of non-permanent material such as canvas, cardboard, paper, plastic or wood.
- B. Requirements for Temporary Signs
- Temporary signs shall be removed within one week (7 calendar days) after the event that they are advertising has concluded. The maximum height shall be three (3) feet.

**Section 13-6. Prohibited Signs**

- A. General
1. Definition. A prohibited sign is one that cannot be erected or maintained.
  2. The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Article prohibits.
- B. List of Prohibited Signs
1. Obstructive Signs. A sign must not be placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, pedestrians, or that interferes, in any way, with placement or function of vehicular or pedestrian traffic, or any traffic control device.
  2. Roof Signs. A sign mounted on the roof of a building or that is dependent upon a building for support, but projects above the top wall or edge of a building with a flat roof, the eave line of a building with a gambrel gable, or hip roof, or the deck line of a building with a mansard roof.

3. **Unsafe Sign.** A sign which creates a safety hazard due to structural or electrical conditions, or by reason of inadequate maintenance. A sign that becomes unsafe after erection must be repaired to meet safety requirements or removed within 30 days of notice of the unsafe condition.
4. **Moved by the Wind.** A sign in the form of a banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device which will move in the wind.
5. **Signs in the Public Right-of-Way.** Signs may not be placed in public rights-of-way except for signs erected by any governmental agency or utility company in the performance of its official public duties.
6. **Attached to the Property of Others.** A sign must not be attached or affixed to a structure or property such as a fence, wall, antennas, other signs, trees or other vegetation, or to any public structure such as a utility pole without permission of the owner.
7. **Abandoned or Obsolete Sign.** A legally-erected sign, other than a temporary sign, including structural supports and electrical connections, directing attention to a business, commodity, service, or entertainment in a building that has not been used for 6 months or more.
8. **Off-Site Sign (Billboard).** A sign directing attention to a business, commodity, service, or entertainment conducted, sold, ordered at a location other than the premises on which the sign is located.
9. **Supporting Structure.** Stationary vehicles being used for the sole purpose of advertisement by way of signage on or attached to the vehicle shall not be permitted. This shall include trucks, cars, trailers, etc.

### **Section 13-7. Exempt Signs**

#### **A. Definition**

An exempt sign is a sign that is not required to comply with the size, location, and number standards of this Article, but it must comply with the applicable provisions governing Prohibited Signs.

#### **B. List of Exempt Signs**

##### **1. Two Square Feet or Less**

- a. **Residential Living Sign.** A sign on private property, customarily associated with residential living or decoration. The maximum height shall be three (3) feet.
- b. **Newspaper and Mailbox.** A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.
- c. **Warning Signs.** A sign warning the public about trespass, danger, or safety considerations.

##### **2. Regardless of Size**

- a. **Not Visible Outside of Property.** A sign not visible beyond the property lines of the property on which the sign is located.
- b. **Official Duties of Government or Utilities.** A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.
- c. **Required by Law.** A sign whose display is required by law or regulation.
- d. **Flags on Flagpoles.** A flag displayed on a flagpole. Those flags that are not expressly prohibited by the State of Delaware shall be permitted. The maximum flagpole height shall be no higher than the maximum allowable building height in the zone where the flag is to be located.

- e. Commemorative Sign. A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure like a cornerstone, memorial, plaque or historical marker.
- f. Part of a Dispenser. A sign that is an integral part of a dispensing mechanism, such as a beverage machine, newspaper rack, or gasoline pump.
- g. Holidays. A sign, including lighting in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it must be removed within 14 days following the end of the holiday.

### **Section 13-8. Non-Conforming Signs**

See Article 5, Nonconforming Situations.

### **Section 13-9. Administration**

- A. Permits Required. For permits required, see Table 13-1.
- B. Application Procedure  
Applications shall be submitted to the Planning Commission.
- C. Town of Felton Review  
The Planning Commission shall review the sign request prior to issuing a Certificate of Zoning Compliance. Sign requests shall follow the procedures described in Figure 4-1 of this ordinance.
- D. Permit Fees  
The Town of Felton may adopt fees for the processing and issuing of sign permits.

### **Section 13-10. Property Addressing Required.**

- A. Street addresses must be prominently displayed at the main entrance of all main or principal buildings on a lot. Address numbers must be clearly visible to the public and to emergency service personnel.
- B. Address numbers must be Arabic numerals in a standard, highly legible font.
- C. Address numbers must be of a contrasting color in order to provide maximum visibility when affixed to the structure.
- D. Commercial structures or shopping centers with two or more tenants must display the suite number at both the main entrance and also at any side or rear entrance or loading dock associated with that particular commercial space or unit.
- E. Address numbers must be a minimum of four (4) inches in height for single family residential dwellings, including duplexes, townhouses, and modular homes.
- F. Address numbers must be a minimum of six (6) inches in height for multi-family and multi-family converted dwellings. Multi-family and multi-family converted dwellings must also indicate each apartment number prominently at the main entrance of the apartment unit in numbers no less than four (4) inches in height.
- G. Address numbers for all other land uses shall be no less than eight (8) inches in height.

**Table 13-1. Sign Dimensional and Permit Requirements**

<b>Zone or Use</b>	<b>Sign Type Allowed</b>	<b>Max. Area (ft<sup>2</sup>)</b>	<b>Max Height (ft)</b>	<b>Front Setback (ft)</b>	<b>Side Setback (ft)</b>	<b>Permit Required</b>
All Residential	Temp. Only	4	3	5	5	No
Home-Based Business	Free-Standing, Wall <sup>1</sup>	16	5	10	5	Yes
Real Estate, Dev. & Const.	Free-Standing	16	5	5	5	No
C-1, R-4 (Commercial)	Free-Standing, Wall <sup>1</sup>	32	24	10	10	Yes
C-2	Free-Standing, Wall <sup>1</sup>	100	30	15	15	Yes
LI	Free Standing, Wall <sup>1</sup>	64	24	15	15	Yes

<sup>1</sup> Wall signs shall be placed below the eave. No wall sign shall be placed higher than the roof.

## Article 14. Parking and Loading Standards

### Section 14.1 Purposes & Scope

- A. Purposes
  1. To relieve congestion and facilitate the movement of vehicular traffic.
  2. To facilitate the movement of police, fire, and other emergency vehicles.
  3. To protect adjoining residential neighborhoods from the negative effects of on street parking.
  4. To promote the general convenience, welfare, and prosperity of uses, which depend upon off-street parking facilities.
- B. Scope
  1. When Required. Off-street parking facilities shall be provided under the following conditions:
    - a. When any use is established or changed;
    - b. When any building or structure is erected, expanded or whenever there is a change of use.
  2. The parking requirements in this part of the Ordinance do not limit requirements or conditions that may be imposed on development plan approvals or other approvals.
  3. Parking facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle, equipment, material, or supplies.

### Section 14-2. Parking Standards

- A. Definitions
  - Off-Street Parking Space.** A permanently-reserved, temporary storage area for one motor vehicle that is not located on, but is directly accessible to a dedicated street right-of-way which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.
  - On-Street Parking Space.** A temporary parking space for one motor vehicle that is located within the street right-of way.
- B. General Requirements
  1. New residential developments in the R-2 (except single-family), R-3, and R-4 zones shall be designed to have adequate parking for both residents of the housing units, and on-street parking or overflow parking available to accommodate visitors, service delivery vehicles, and families with more than 2 vehicles.
  2. Parking shall be arranged in a manner so as not to block the travel lanes or impede access to rear access areas and to not obstruct cul-de-sacs and other designated turning areas.
- C. Computation of Required Number of Spaces
  1. General. The minimum number of required off-street parking spaces shall be determined according to the Table 14-1.
  2. Fractional Spaces. Where the computation of spaces results in a fractional space, the fractional space shall be counted as one additional required space.
  3. Number of Employees. The number of employees shall be based on the maximum number of persons employed on the premises at one time on a typical day or night, whichever is greater. Seasonal variations in employment may be considered in determining an average day or night.
  4. Joint Use. Where more than one use occupies a single structure, the parking requirements shall be computed by adding together the number of required parking spaces for each use.
  5. Shared Facilities. Houses of worship, auditoriums or educational institutions may make arrangements with business establishments, which normally have different days or hours of

- operation, for sharing up to 100% percent of their required parking facilities. Such amendments must be approved by the Planning Commission
6. Uses Not Specifically Listed. The required number of parking spaces for uses not specifically listed in Table 14-1 shall be the same as for a similar listed use as determined by the Planning Commission.
  7. Modification of Required Spaces. The Town Council may modify the parking requirements if the Planning Commission determines that the requirements are clearly excessive and unreasonable.
- D. Location
1. General
    - a. Parking facilities shall be located on the same lot with the building or use served.
    - b. Parking facilities may be located within required building setback areas.
    - c. Parking spaces or zones for use by persons with disabilities shall be provided in accordance with current federal regulations.
  2. Exception. Required parking facilities may be located within 300 feet from the building or use served when:
    - a. A change in use or an enlargement of a building requires an increase in the number of parking spaces.
    - b. Spaces are provided collectively to serve two or more buildings.
- E. Design Standards
1. Parking Space Dimensions
    - a. Vertical and Diagonal Parking. 10 feet by 20 feet.
    - b. Parallel Parking. 10 feet by 22 feet .
  2. Interior Drive Aisle Width. As required by the State Fire Marshal.
  3. Entrances and Exits
    - a. The location and design of entrances and exits shall be in accordance with the requirements and standards of the Delaware Department of Transportation.
    - b. Landscaping, curbing or approved barriers shall be provided to control entrance and exit of vehicles and to protect pedestrians.
  4. Backing onto Public Road Prohibited. Off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, except for dwelling units each having an individual driveway.
  5. Drainage. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
  6. Surface Material. Off-street parking facilities shall be surfaced with erosion-resistant material in accordance with applicable Town specifications. The use of any surface material other than asphalt paving or concrete shall be subject to the approval of the Town Engineer and Planning Commission.
  7. Separation from Walkways and Streets
    - a. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other Town approved protective device or by distance so that vehicles cannot protrude over publicly used areas.
    - b. Parking within front yard setbacks shall be discouraged and subject to site plan review.
  8. Marking. Parking spaces in lots of more than 4 spaces shall be marked by painted lines or other means to delineate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
  9. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare into residential areas.

10. Screening. Parking areas in non-residential zones shall be separated from any adjacent residential property with a screen or landscape buffer approved by the Planning Commission.
  11. Maintenance. Off-street parking areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee.
  12. Accessible Parking. Accessible parking spaces shall be signed in accordance with the following:
    - a. Such signs shall be vertical and placed at a height of at least 5 feet from grade but no more than 7 feet when measured from the surface directly below the sign to the top of the sign for each parking space;
    - b. Such signs shall comply with state and federal specifications for identification of parking spaces reserved for persons with disabilities which limit or impair the ability to walk. A sign at least 12 inches wide (horizontal) and 18 inches tall (vertical) that includes the universal handicapped (wheelchair) symbol of access shall be required for each parking space reserved for use by persons with disabilities;
    - c. These requirements shall not be construed to preclude additional markings, such as the international wheelchair symbol or a striped extension area painted on the space, or a tow-away warning sign.
  13. In units with rear access alleys, the parking spaces must be located in the rear of the units off of the alley.
  14. If garages are provided, one space may be counted in the garage provided that the garage is at least 12 feet in width.
  15. On-street parking spaces must be situated so as not to obstruct any driveway, alley, walkway, pathway or any other curb cut.
  16. Overflow parking may take the form of parking lots, curb bump outs, or other innovative design measures. Approval of overflow parking is at the discretion of the Planning Commission.
  17. No part of a vehicle shall encroach in any sidewalk area in any zone.
- F. Major Recreational Equipment & Unlicensed Vehicles
1. Major Recreational Equipment
    - a. Major Recreational Equipment includes boats, boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on motor vehicles, recreational vehicles (RVs), motorized dwellings, tent trailers, personal watercraft, snow mobiles, and similar equipment as well as cases or boxes used for transporting major recreational equipment regardless of whether the equipment is inside of the boxes.
    - b. Regulation. On a lot in a residential zone, Major Recreational Equipment:
      - i. May not be parked within the front yard setback;
      - ii. May not be used for living, sleeping, or other housekeeping purposes;
      - iii. May be parked in the front yard setback for a maximum of 24 hours while loading and unloading;
      - iv. Major recreational equipment may be parked in the side or rear yard provided it does not take up required parking for that lot and is a minimum of 5 feet from the property line;
      - v. No major recreational equipment shall be parked on townhouse or multi-family lots regardless of zone.
      - vi. No major recreational equipment shall be allowed to park in the street.
  2. Unlicensed Vehicles and Trailers. On any residentially zoned property, a vehicle or a trailer that is not used in support of customary farming operations and does not have current license plates may be parked or stored only in a completely enclosed building.

**Section 14-3. Loading Space Standards**

## A. Definitions

**Loading Space.** A permanently reserved, temporary storage area in a non-residential zone for the purpose of loading and/or off-loading materials or goods produced or for use by the non-residential use.

## B. General Requirements

1. Off-street loading spaces shall be provided on the same lot as the principle use they are intended to serve. In no instance shall an off-street parking space be counted as part of an area to satisfy the off-street loading space requirements and visa versa.
2. All loading spaces shall be located at the side or rear of the building they are intended to serve. Loading spaces shall not be permitted in the front yard of any property.
3. The minimum dimensions of a loading space shall be 12 feet wide by 45 feet long.
4. All loading spaces shall be striped with four inch yellow striping around the perimeter, 45 degree, 4 inch yellow striping in the interior, along with the words "loading space" painted in prominent yellow lettering in the center.
5. The minimum number of loading spaces shall be as determined by the Planning Commission.

**Table 14-1. Required Off-Street Parking Spaces**

Use	Parking Spaces Required
Single Family Dwellings	2 per unit
All Other Residential Uses	2 per unit, plus 0.5 on-street or overflow parking per unit <sup>1</sup>
Home-Based Business	1 per non-resident employee, plus residential requirement
Bed & Breakfast	1 per guest room, plus residential requirement
Hotel/Motel	1 per guest room, plus one per each 40 square feet of meeting room, plus one for each employee of the maximum shift
Restaurants, not including fast food	1 per every 3 seats plus one per each employee of the maximum shift; or 1 per each 150 square feet of area used for seating, whichever results in the greater number of spaces
Fast Food Restaurants	1 per every 2 seats, plus one for each employee of the maximum shift
Retail Stores and Shops, all types including Rental Stores, Supermarkets	1 per each 200 square feet of floor area devoted to sales, plus one per employee
Wholesale Trade Establishment	1 per each 200 square feet of floor area devoted to sales, plus one per employee
Service Establishments, all types, not including Motor Vehicle Filling Station, Motor Vehicle Repair, or Carwash	1 per each 300 square feet of gross floor area, plus one per employee
Professional Offices, including Government	1 per each 150 square feet of gross floor area
Motor Vehicle Filling Station and Convenience Store Filling Station Combination	1 per each 100 square feet of sales area, plus one space for each employee of the maximum shift
Motor Vehicle Repair	3 per each repair bay, plus one per each employee
Carwash (automatic)	Minimum of four que storage spaces prior to wash, one que storage space per wash bay after wash, one parking space per wash bay, plus one for each employee of the maximum shift
Carwash (self-service)	Minimum of 2 spaces
Manufacturing, Warehouse	1 per each employee of the maximum shift, plus two spaces

<b>Use</b>	<b>Parking Spaces Required</b>
Self-Storage Facility	Minimum of one space per storage unit. Spaces may be parallel with storage units provided there is no interference to a continuous travel way through the facility
Place of Worship, Theater	1 per every four seats in the assembly area, plus one for each theater employee
Social Club or Lodge	1 per each 100 square feet of area devoted to social gathering, plus one per each adult attendant
Golf, Tennis, Fitness, or other type of Club, public or private, including recreation facilities	1 per each 100 square feet of indoor social gathering or dining area, plus one per each employee of the maximum shift, plus additional spaces for outdoor activity areas as determined by the Planning Commission
Educational Institution (grades K-8)	1 per teacher or other weekday employee, plus one for every four seats in the largest assembly area
Educational Institution (above grade 8)	1 per every six students at building capacity, or one per every four seats in the largest assembly area, whichever is greatest; plus one per each faculty member or weekday employee
Adult Day Care	1 for each employee of the maximum shift, plus five visitor spaces
Child Day Care Center	1 space for each employee, plus one space for every two non-related children in care
Child Care, Home	Same as Home-Based Business
Hospital, Nursing Home	1 per every 2 beds at design capacity, plus one for each employee of the maximum shift
Medical, Surgical, Veterinary Clinic	2 per every examining and/or operating room, plus one per employee
Funeral Home	1 per every three seats in the viewing or assembly area, plus one per employee/attendant
Fire Station	Minimum of 25, plus one per every two seats of a rent able banquet area, where applicable
Public Library	1 per every 400 square feet of area for public use, plus one per each employee of the maximum shift
Public Utility Facility (non-office)	4, plus one per employee of the maximum shift
Public Park	As determined by the Planning Commission
Mixed Use	The sum of spaces required for each use, computed separately
Other	The requirement shall be based on the closest similar use, as determined by the Planning Commission

1. See Section 14-2, E, 16 for overflow requirements.

## **Article 15. Certificate of Zoning Compliance**

### **Section 15-1. General**

No premises shall be used, no excavation for any buildings shall occur, and no building erected or structurally altered hereafter, shall be used, occupied or changed in use until a Certificate of Zoning Compliance shall have been issued by the Planning/Zoning Commissioners, stating that the building or proposed use of a building or premises complies with the provisions of these regulations. The Town Manager has the authority at his/her discretion to approve Certificate of Zoning Compliance not associated with new structures.

### **Section 15-2. Application**

Every application of a Certificate of Zoning Compliance shall be accompanied by a fee, the sum of which shall be determined by the fees being charged at the time of application and **by a plot plan drawn to scale** showing:

1. The actual shape, dimensions, radii, angles, bearings and area of the lot, which the building is proposed to be erected, or of the lot on which it is situated if a building exists.
2. The tax identification number.
3. The exact size and location on the lot of all proposed and existing buildings including accessory buildings.
4. The dimensions of all yards in relation to the subject building and the distances between such buildings and any other existing buildings of the same lot.
5. The existing and intended use of all buildings existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
6. Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this Ordinance. Applications for the construction of new buildings will be accompanied by an accurate survey prepared by a licensed engineer or land surveyor.

### **Section 15-3. Single-Family Development Plan Approval**

All Certificate of Zoning Compliance applications shall be submitted to the Planning Commission for recommendation to Town Council. The Council shall then determine whether or not to issue the Certificate of Zoning Compliance in accordance with the dictates of this Zoning Ordinance.

### **Section 15-4. Potential or Actual Conflicts of Interest**

The members of the Planning Commission shall disclose to the other members of the Commission any potential or actual conflicts of interest between their official duties on the Planning Commission and any personal private business or enterprise prior to considering an application for a Certificate of Zoning Compliance brought before the Commission. If in the opinion of the majority of the members present a conflict of interest does in fact exist, the member in conflict shall be excused from the discussion on the application being considered and shall not participate in the final decision of the Commission for the particular application in question, except as in a similar manner as any other applicant would be expected to answer questions.

**Section 15-5. Reapplication for Certificate of Zoning Compliance**

No application for a Certificate of Zoning Compliance requesting the same use on the same property shall be received by the Planning Commission for a period of one year following the decision in the matter of the Town of Felton Council.

## **Article 16. Text & Map Amendments**

### **Section 16-1. General**

The Town of Felton may, from time to time, amend, supplement, change, or modify the number, shape, area, or boundaries of the zoning districts or the text of the regulations contained in this Ordinance.

### **Section 16-2. Types of Amendments and Who May Initiate**

- A. Text Amendment  
An amendment to the text of this Ordinance may be initiated by motion of the Planning Commission.
- B. Zoning Map Amendment  
An amendment to the Zoning Map may be initiated by a motion of the Planning Commission, or by a petition from the owner of the property proposed for a zoning change.

### **Section 16-3. Application Submission**

- A. Planning Commission to Accept Applications  
An application for map or text amendment shall be submitted to the Planning Commission at least 30 days prior to the Planning Commission's next regular meeting.
- B. Planning Commission Recommendation  
The Planning Commission shall send the application to the Administrator for technical review and the Administrator shall send comments back to the Planning Commission. The Planning Commission shall review the proposed amendment based on the Town's Comprehensive Plan and the intent of this ordinance and shall forward their recommendations and Administrator comments to the Town Council prior to scheduling a Public Hearing. No text or map amendment, supplement, change, modification, or repeal by the Town Council shall become effective until after a Public Hearing has been held.

### **Section 16-4. Town Council Review**

- A. Town Council to Hold Public Hearing  
The Town Council shall set a public hearing date.
- B. Public Notice
  - 1. Prior to the public hearing, a notice shall be published in a newspaper of general circulation in the Town of Felton. The publication shall be made within 30 days of the Town Council having received recommendation(s) from the Planning Commission.
  - 2. The notice shall provide information about the nature of the proposed amendment and announce the time and the place for the Town Council's public hearing.
- C. Timing of Public Hearing  
The public hearing shall be held within 30 days after of publication of the notice.
- D. Conduct of Public Hearing  
All interested parties and citizens shall be given an opportunity to be heard.
- E. Review Criteria
  - 1. The Town Council shall consider the Town's Comprehensive Plan, public testimony, and recommendations of the Administrator and Planning Commission in making decisions regarding text and map amendments, or changes.
  - 2. Text Amendment. The Town Council may make changes to a proposed text amendment.
  - 3. Map Amendment (Rezoning)
    - a. Land must be placed in a zoning classification that is in accordance with the uses of land provided for in the Comprehensive Plan.

- b. The Town Council may not add land to what was included in the proposed amendment.
- c. Placing a single parcel of land in more than one zoning district (split zoning) shall not be permitted.

**Section 16-5. Limitation on Reapplication**

No application for an amendment, supplement, change, or modification or repeal requesting the same relief in regard to the same property shall be received by the Town Council for a period of one year following the decision in the matter by the Town Council.

## **Article 17. Violations & Penalties**

### **Section 17-1. Town Council Authorized to Institute Action**

The Town Council is authorized and directed to institute appropriate actions to put an end to any violations of this Ordinance.

### **Section 17-2. Penalties for Violations**

#### **A. Initial Violation**

1. Defined. An initial violation is the first time that any person or corporation that:
  - a. Shall violate any provision of this Ordinance;
  - b. Shall fail to comply with any requirements of this Ordinance;
  - c. Shall fail to comply with the conditions of the approval of site or subdivision plans, variances, conditional uses, or other development-related permits; or
  - d. Shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
2. Penalty. An entity, who commits an initial violation, shall be charged with such violation and shall be liable to a fine of not more than \$500.00.

#### **B. Subsequent Violation**

1. Defined. A subsequent violation is defined as each and every day, following the initial violation, that any person or corporation that:
  - a. Shall violate any provision of this Ordinance;
  - b. Shall fail to comply with any requirements of this Ordinance;
  - c. Shall fail to comply with the conditions of the approval of site or subdivision plans, variances, conditional uses, or other development-related permits; or
  - d. Shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
2. Penalty. An entity who commits a subsequent violation shall be charged with such violation and shall be assessed for a violation in the amount of \$500.00, for each individual violation without the necessity of a separate citation or summons issued by the Town of Felton.

### **Section 17-3. Responsible Parties**

The owner or owners of any building or premises, or part of such building or premises, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection with such building or premises, and who have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein before provided.

**Appendix 1 – Approved Trees**

The following species and varieties of trees are considered acceptable for use in the Town of Felton. All trees must be 1 ½” caliper dimension at time of planting. The term “caliper dimension” means an outside diameter measurement of the trunk of a tree measured at a vertical distance three (3) feet above grade.

Large trees (over 40 feet): should be planted 40 feet on center.

Acer rubrum "Red Sunset"	Red Maple
Acer saccharum "Green Mountain"	Sugar Maple
Celtis occidentalis*	Common Hackberry*
Gleditsia triacanthos "inermis"	Thornless Honey Locust
Platanus acerifolia	London Plane Tree (Liberty or Columbia varieties)
Quercus coccinea*	Scarlet Oak*
Quercus macrocarpa	Willow Oak
Quercus palustris*	Pin Oak*
Quercus rubra*	Northern Red Oak*
Quercus shumardii	Shumard Oak
Tilia cordata	Littleleaf Linden
Zelkova serrata	Japanese Zelkova
Thuja Occidentalis 'Pyramidalis'	Arborvitae

*Note: maples to be planted in a minimum 8 foot wide green strip, or, behind the sidewalk.*

Medium trees (30 to 40 feet): should be planted 30 feet on center.

Acer campestre	Hedge Maple
Carpinus betulus	European Hornbeam
Carpinus caroliniana*	American Hornbeam*
Crataegus crusgalli inermis	Thornless Cockspur Hawthorn
Koelreuteria paniculata	Goldenrain Tree
Prunus serrulata "Kwanzan"	Kwanzan Cherry
Prunus sargentii	Sargent Cherry
Pyrus calleryana	Flowering Pear (Aristocrat or Redspire varieties)
Sophora japonica	Scholar Tree
Syringa reticulata	Japanese Tree Lilac

This shall certify that this is a true and correct copy of the Town of Felton Planning & Zoning Ordinance duly adopted by the Town of Felton Town Council at a duly-noticed and convened meeting at which a quorum was present on July 8, 2013.

So Certifies:

Attest:   
Mayor David L. Kelley

  
Vice Mayor Joseph Yapsuga

  
Councilman Anthony Carroll

  
Councilwoman Joanne Clendaniel

  
Councilman Kevin Fletcher

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This shall certify that the First Reading of the Town of Felton Planning & Zoning Ordinance was held at the Felton Town Council Meeting on May 13, 2013. The Public Hearing on the Town of Felton Planning & Zoning Ordinance was held on July 8, 2013 and that notice of such hearing was published in the Delaware State News on July 28 & 29, 2013 and published in the Harrington Journal on July 26, 2013. It was posted in Felton Town Hall, the Felton Post Office and the Felton Bank on July 1, 2013.

  
Town Clerk – Amy Lupinetti